



## Appeal Decision

Site visit made on 9 November 2016

**by Gary Deane BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 17 November 2016**

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### **Appeal Ref: APP/Z4718/D/16/3158810**

### **10A Penistone Road, New Mill, Holmfirth HD9 7JR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Donald Angir against the decision of Kirklees Metropolitan Council.
  - The application Ref 2016/62/91381/W, dated 25 April 2016, was refused by notice dated 14 September 2016.
  - The development proposed is described as: 'We have built a garden room in the garden and require retrospective planning permission. The garden room is built out of stone and has a conservatory as part of the building. The garden room is in the garden and it is separate to the main dwelling. We have built a fence to maintain neighbour privacy.'
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### **Decision**

1. The appeal is dismissed insofar as it relates to the erection of a fence.
2. The appeal is allowed and planning permission is granted for the erection of a garden room at 10A Penistone Road, New Mill, Holmfirth HD9 7JR in accordance with the terms of the application Ref 2016/62/91381/W, dated 25 April 2016, and the plans submitted with it, Refs 02, 03, the drawing entitled Summer House Elevations and the Plan that shows the site edged red.

### **Procedural matters**

3. The proposed garden room and fence are complete and appear to have been constructed broadly in accordance with the plans.
4. For clarity and brevity, I have used the Council's description of development, which is the erection of a garden room and fence, in my decision.

### **Main issues**

5. The main issues are the effect of the fence on the living conditions of the occupiers of 14 and 16 Penistone Road with regard to visual impact and the effect of the garden room on the character and appearance of the local area.

### **Reasons**

#### *Living conditions*

6. To overcome overlooking problems towards and from the garden of the appeal property, a timber fence has been erected along the common boundary with 14 and 16 Penistone Road, which are mid-terrace properties that back onto the
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site. A significant effect of the fence, which according to the Council stands between 2 metres and 2.4 metres high, is to partly enclose the short rear gardens of these neighbouring properties from which the fence is visible. The fence would also be evident at close range from the first floor rear windows of both Nos 14 and 16, which are just above the sloping garden of No 10A due to the notable difference in ground levels. Having viewed the rears of Nos 14 and 16 from the site, I have little doubt that the fence, due to its height and position close to the first floor rear windows of these properties, has an overly imposing presence and overbears on the occupiers of these properties.

7. On the first main issue, I therefore conclude that the fence unacceptably harms the living conditions of the occupiers of Nos 14 and 16. Accordingly, it conflicts with Policy D2 of the Kirklees Unitary Development Plan (UDP) insofar as it aims to safeguard residential amenity. It also fails to adhere to a core principle of the National Planning Policy Framework (the Framework), which is to secure a good standard of amenity for all occupiers of land and buildings.
8. The appellant states that the height of the fence could be reduced so that it qualifies as permitted development or it could be removed in its entirety. Nevertheless, planning permission is sought for the fence, as erected, and so I have assessed it on that basis.

#### *Character and appearance*

9. The garden room stands towards one corner of the garden of No 10A, which occupies an elevated position to the main house. The new addition has two main elements: a stone building with a dual pitched roof and a conservatory that faces towards the front of No 10A. The overall building is single storey and is modest in scale and height, with external materials that are of reasonable quality and are compatible with those of other nearby buildings.
10. The juncture between the conservatory and the stone building is rather abrupt largely due to their contrasting roof form and use of different materials. Nevertheless, the overall appearance of the garden room is a domestic outbuilding and it does not look out of place in its residential setting. Its design, while unusual, is not so jarring as to cause significant harm to the predominantly residential character of the area. Although the elevated position of the garden room accentuates its prominence, public views of it are limited due to the screening provided by existing buildings and boundary treatment. Consequently, the development is not readily visible in its entirety from public vantage points.
11. On balance, I conclude on the second main issue that the garden room does not cause significant harm to the character and appearance of the local area. As such, it does not conflict with UDP Policies BE1 and BE2, which broadly aim to ensure that new development achieves good quality design and is in keeping with the surrounding area.

#### *Other matters*

12. Interested parties raise additional concern that the garden room, if permitted, would set an undesirable precedent for further development in the garden of No 10A. However, I disagree. Such proposals would be likely to require planning permission and should be assessed on their own merits.

13. The garden room is close to the boundary that is shared with the adjacent property just to the north. According to the Council the windows in the elevation facing the site are required to include obscure glazing. From what I saw, overlooking towards this neighbouring property from the garden room would not be significantly greater than would be possible from standing within the garden of No 10A. As this adjacent property is broadly to the north of the garden room there would be no significant loss of sunlight as a result of the new built form. Reasonably generous distances would separate the garden room from other neighbouring properties. Consequently, there would be no undue loss of privacy through overlooking or an undue loss of light to other nearby occupiers. The problems associated with debris and weeds on and adjacent to the site are a private matter between individuals that is outside the remit of this appeal.

### **Conditions**

14. As the garden room is clearly severable to the fence I am able to issue a split decision that grants planning permission solely for it. The Council has put forward 2 suggested conditions if planning permission were to be granted. As the development is complete, the standard time limit condition is unnecessary. I have, however, specified the approved plans in my decision for certainty.

### **Conclusion**

15. Overall, for the reasons set out above, I conclude that the appeal should be dismissed in part and allowed in part.

*Gary Deane*

INSPECTOR



## Appeal Decision

Site visit made on 9 November 2016

**by Gary Deane BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 17 November 2016**

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### **Appeal Ref: APP/Z4718/D/16/3159204**

### **23 Midway, South Crosland, Huddersfield HD4 7DA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Wilson against the decision of Kirklees Metropolitan Council.
  - The application Ref 2016/62/91438/W was refused by notice dated 4 July 2016.
  - The development proposed is the erection of a garage extension.
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### **Decision**

1. The appeal is dismissed.

### **Main issue**

2. The site falls within the Green Belt. The Council considers that the proposal would not represent inappropriate development in the Green Belt as defined in development plan policy and paragraph 89 of the National Planning Policy Framework (the Framework). I concur with that position. Therefore, the main issue is the effect of the proposed development on the character and appearance of the local area.

### **Reasons**

3. The appeal property is a semi-detached 2-storey house within a mainly residential area. It lies within the South Crosland Conservation Area (CA), within which buildings vary in style, age and size as the appellant's photographs show. Along Midway in the vicinity of the site some properties include frontage buildings that are close to the road. Even so, most properties are set back from the highway behind gardens and reasonably open frontages, which collectively give a spacious feel to the local street scene.
  4. I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA, as required by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
  5. The proposal is to erect a new single storey extension at the front of the house with additional paving to the front garden. The new porch element would have a short mono pitched roof and extend across about one half of the front façade. The new garage component would connect with and stand further forward of the new porch and include a dual pitched roof. External materials would match those of the host building.
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6. Taken together, the new porch and garage would be a sizeable front addition. The proposed extension could not reasonably be described as relatively small in scale to which Policy BE14 of the Kirklees Unitary Development Plan (UDP) refers. Furthermore, the new extension would be placed to one side of the front façade and significantly forward of the main front wall. In this position, the scale and forward projection of the extension would cause it to unduly disturb the flat and balanced façade of the host building. As a result, it would detract from the intrinsic character and appearance of the appeal property.
7. As the proposed garage would extend a significant way to the site's front boundary, it would stand out prominently in relation to the existing dwelling and the properties on either side. In oblique views from the road close to the site's entrance, the proposed garage would be obtrusive due to its size and position notwithstanding the partial screening provided by an adjacent boundary wall. From these public vantage points, the new garage would appear as an incongruous intrusion into a relatively open space at the front of No 23 even in the context of varied built form along this section of the road.
8. The effect of the proposal on the presence of the neighbouring property, which is 19 Midway, the traditional style of which adds to the CA would be modest given that a stepped wall partly separates these properties. Even so, the introduction of a sizeable new building in front of No 23, as proposed, would appear as a discordant addition that would noticeably reduce the sense of space in the local street scene. Consequently, the proposal would detract from and thus fail to preserve the character and appearance of the CA, to which I attach considerable importance and weight.
9. Reference is particularly made to a nearby property that includes a block of garages close to the highway. This block is conspicuous from the road and forms part of the character of the area. Nevertheless, sizeable front garages that attach to the front of dwellings are not a strong or prevailing characteristic of the local area. Furthermore, it is a central principle of the planning system that every proposal should be considered on its own merits, which I have done.
10. The harm caused by the appeal scheme on the significance of the CA as a designated heritage asset would be less than substantial. In those circumstances, the Framework advises that the harm should be weighed against the public benefits. Constructing the new development would positively contribute to the local economy through the provision of jobs and the sale of construction materials. However, these public benefits do not outweigh the significant harm that I have identified.
11. On the main issue, I conclude that the proposed development would have a detrimental impact on the character and appearance of the local area. Accordingly, it would not comply with UDP Policies BE1, BE2, BE5 and BE14. These policies aim to ensure that development achieves good quality design, creates or retains a sense of local identity, is in keeping with surrounding and does not prejudice visual amenity or the character of the area.
12. It also fails to comply with the Framework, which emphasises the importance of securing high quality design. It also notes that development should respond to local character, add to the overall qualities of an area and safeguard designated heritage assets such as conservation areas.

**Conclusion**

13. For the reasons set out above, I conclude that the appeal should be dismissed.

*Gary Deane*

INSPECTOR

## Appeal Decision

Site visit made on 25 October 2016

by **A A Phillips BA(Hons) DipTP MTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 03 November 2016

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**Appeal Ref: APP/Z4718/W/16/3154981**

**Adjacent to No 2 Lightenfield Lane, Netherton, Huddersfield HD4 7WJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr R Burgin (NHBC Builder) of Field View Homes Yorks Ltd against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/62/91030/W, dated 28 March 2016, was refused by notice dated 10 June 2016.
  - The development proposed is one detached dwelling.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the proposal on
  - i. the character and appearance of the area; and
  - ii. the living conditions of the occupants of adjacent dwellings with particular reference to outlook.

### Background

3. The Council is unable to demonstrate a five year housing land supply and therefore, according to Paragraph 49 of the National Planning Policy Framework (the Framework) relevant policies for the supply of housing are considered to be out of date. According to Paragraph 14 of the Framework proposals that accord with the development plan should be approved without delay, unless any adverse impacts would significantly and demonstrably outweigh the benefits.

### Reasons

#### *Character and appearance*

4. The appeal site is a triangular plot of land situated off Lightenfield Lane within a predominantly residential area. Although the plot does have a positive role in presenting an open character of the prominent site on the approach to the nearby South Crosland Junior School car park and Netherton and South Crosland Conservative Club, it is currently in an overgrown and unkempt condition.
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5. The site slopes steeply and is at a lower level than the adjacent highway, yet at a higher level than the adjacent rear garden of 2 Lightenfield Lane and the rear of the adjacent bungalows on Noble Court. There is a variety of boundary treatments around the site, comprising mainly a low stone wall along Lightenfield Lane and low wooden fencing.
6. There is a variety of residential and other development in the vicinity of the site. No 2 Lightenfield Lane which lies immediately adjacent to the plot is a brick two storey pitched tiled roof detached house set within a reasonable plot, beyond which is the Conservative Club with its associated car parking area and bowling green. A bungalow development known as Noble Court is situated adjacent to the western boundary of the appeal site. Also in the immediate vicinity is a row of single storey pitched roof historic bungalows known as Cottage Homes. There are modern large detached properties on Coppice Drive and a large estate of mainly two storey terraced and mews type modern dual and mono-pitched houses off Coppice Drive.
7. The proposed two storey pitched roof house would be situated very close to the highway on the highest part of the site near to No 2. The openness of the site and its relationship with the surroundings are key factors in identifying the effect of the development on the character and appearance of the area. Given the sloping nature of the site the appellant has presented some contextual elevations showing how the property would relate to its immediate surroundings and the topography of the site. No detailed sections and existing and proposed levels have been submitted in support of the appeal.
8. Having observed the topography of the site during my site visit I do not consider the submitted drawings are conclusive in terms of accurately representing the relationship of the house to its immediate surroundings, including No 2, the adjacent highway and the rear of properties on Noble Court. From the evidence presented it is difficult to envisage how the property could be constructed on site as shown with eaves and ridge levels below those on No 2. Even if this could be achieved it seems that it could only be done with substantial excavation works and potentially retaining structures.
9. Nonetheless, the substantial property on the highest part of this prominent site situated adjacent to the highway would be particularly dominant in the street scene. Its awkward and uncharacteristic relationship with the highway would be at odds with other properties in the area and would constitute an incongruous development which fails to respect its surroundings.
10. The proposal would provide on-site parking and private garden space. The plot is larger than others in the area and is comparable to the adjacent house No 2. Given the wide range of properties and plot sizes in the vicinity I do not consider the scale of the development in relation to the plot size to be in itself harmful to the character and appearance of the area.
11. Although the property would have a relatively shallow pitched roof there is a great deal of variety on roof styles in the area. However, when combined with concerns with respect to the uncharacteristic relationship of the dwelling with its surroundings I consider that the roof form would add to the incongruity of the proposal.
12. On this issue I therefore conclude that the proposal would harm the character and appearance of the area. It would therefore conflict with the design



requirements of Policies D2, BE1 and BE2 of the Kirklees Unitary Development Plan (the UDP) and the National Planning Policy Framework (the Framework).

*Living conditions*

13. The proposed dwelling would comply with the requirements of Policy BE12 of the UDP with specific reference to minimum separation distances that will normally be applied. However, Policy D2 of the UDP is clear that residential amenity is an issue that should not be prejudiced by new development.
14. Of particular concern in this case is the relationship of the proposal to the bungalows on Noble Court and No 7, in particular. The bungalows which have habitable room windows facing directly towards the proposed dwelling would be at a significantly lower level than the two storey house and at close proximity. Given the topography of the site and the relationship between the bungalows and the proposed dwelling the circumstances cannot be described as those where the minimum separation distances should be rigidly applied. The proposal would be an overbearing and dominant feature and would be detrimental to the outlook from No 7.
15. Although I understand that no objection has been raised by the occupant of No7 I do not consider the lack of objection to be a reason to grant planning permission for a development that would harm the living conditions of local residents.
16. On this matter I therefore conclude that the proposal would harm the living conditions of the occupants of adjacent dwellings with particular reference to outlook. As such it would conflict with the amenity requirements of policy D2 of the UDP and the Framework.

**Conclusion**

17. In the absence of there being a five year supply of housing land the relevant policies for the supply of housing should not be considered to be up to date. However, in this case the adverse impacts of granting planning permission would significantly and demonstrably outweigh the limited benefits of the proposal.
18. For the above reasons and taking account of other matters I conclude that the appeal should be dismissed.

*Alastair Phillips*

INSPECTOR