
Appeal Decision

Site visit made on 1 November 2016

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 9 November 2016

Appeal Ref: APP/Z4718/D/16/3157257

3 Moorcroft Close, Mirfield, West Yorkshire WF14 9FA

- 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 & Mrs P Kenyon against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/91003/W, dated 22 March 2016, was refused by notice dated 25 May 2016.
 - The development proposed is a proposed orangery to rear.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of occupiers of 1 Moorcroft Close, with particular reference to daylight / sunlight and outlook.

Reasons

3. The appeal property is a two-storey, semi-detached dwelling located towards the entrance of a relatively recently developed residential estate. The proposed orangery extension would be located on the rear elevation of No 3. It would extend across almost the entire width of the rear elevation and have a depth of 3.9 metres.
 4. The orangery extension would be positioned almost exactly due south of the neighbouring property, 1 Moorcroft Close. It would be erected very close to the common boundary with that property, at the rear of which is a ground floor habitable room window. That window is also very close to the common boundary between the two dwellings. Although the Council refer to the gap between the proposed extension and the common boundary with No 1 to be approximately 1 metre, my observations of the arrangement at the rear of both properties suggests that the likely gap would in fact be much less.
 5. The appellant has suggested that the original planning permission for the Moorcroft Close development included provision for 2.1 metre high boundary walls between properties. Such walls, it was suggested, would project in the region of 3 metres from the rear of the houses along the common boundary in the interests of privacy. However, even if that were the case and such provisions applied to Nos 1 and 3, I haven't been provided with any evidence to
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this effect and there were no such walls in place at the time of my site visit. Although there was a curve-topped timber panel fence in place along the common boundary, the proposed extension would, in my judgement, be both taller and longer than that fence.

6. Thus, at almost 4 metres in depth, positioned in very close proximity to the habitable room window at No 1, and located due south of that property, the extension would reduce both daylight and sunlight to the rear of No 1 to an unacceptable degree. It would also, for the same reasons, have a harmfully enclosing effect on the outlook from the rear of No 1. The proposal would therefore cause harm to the living conditions of occupiers of that property. This would be contrary to those parts of policies D2, BE1 and BE14 of the Kirklees Unitary Development Plan (UDP) that are concerned with avoiding the detrimental effect of proposals on the residential amenity and living conditions of occupiers of adjoining dwellings and land. This would also be at odds with the provisions of the National Planning Policy Framework which, as one of its core planning principles, seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

7. I note the appellant's suggestion that the proposal could have been constructed under the provisions of the notification process for larger extensions to domestic properties. However, the Council state that permitted development rights were withdrawn from properties on Moorcroft Close as a condition of the original planning permission, a point also acknowledged by the appellant. I therefore give this matter limited weight as a possible fallback position.
8. Whilst reference has been made to an extension at the rear of No 5, I have not been provided with the details of that extension or the circumstances around it and that property appears to be a different house type to the appeal property. In any case, I have considered the appeal proposal on its own merits.

Conclusion

9. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR

Appeal Decision

Site visit made on 1 November 2016

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 10 November 2016

Appeal Ref: APP/Z4718/D/16/3156123

9 Cross Lane, Skelmanthorpe, Huddersfield, West Yorkshire, HD8 9BR

- 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 S Dyson against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/90388/E, dated 4 February 2016, was refused by notice dated 25 May 2016.
 - The development proposed is a dormer extension and external alterations.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was amended during the course of the Council's determination of the proposal. Although the Council's decision notice describes the proposal as the "*erection of front and rear dormers*" I am satisfied that the description set out in the heading above, which I have taken from the appellant's planning application form, accurately describes the proposal. It is clear that the Council have determined the appeal on this basis, and therefore so shall I.

Main Issue

3. The main issue is the effect of the proposal upon the character and appearance of the host building, and upon the surrounding area.

Reasons

4. The appeal property is a detached bungalow situated midway along a gently curving street of similarly sized bungalows. The buildings have in common a somewhat squat appearance, arising from their relatively generous width and generally shallow pitched roofs and low ridge heights. The buildings share a common orientation and form along the length of Cross Lane, which is carried over onto Ashfield Avenue to the rear. The uniformity and consistency of the roof lines and ridge levels is particularly evident in longer views along Cross Lane, where the gentle curve of the street emphasises the pleasing rhythm and uniformity of the dwellings.
 5. The proposed dormer extension would be situated on the rear facing roof plane of 9 Cross Lane. However, in order to attain sufficient internal ceiling heights within the converted roof space the dormer extension would project above the
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height of No 9's existing ridge level by approximately 0.5 metres. Although its width would reflect the width of the bungalow's existing ridgeline, the dormer extension would stand proud of it. As a consequence, the structure, marked out by the external cladding of the dormer cheeks and fascia above, would sit incongruously above the existing ridgeline of the appeal property.

6. Viewed from either side, and in longer views along Cross Lane, it would sit uncomfortably on the roof of the appeal property. From these aspects, the box-like form of the dormer extension would appear as if dropped onto the roof. Its vertical, upvc-clad, dormer cheeks would be at odds with the sloping, tiled roof-planes at the front and side of No 9, whilst the dormer extension's height and form would be obtrusively jarring in the context of the slopes, angles and proportions of the main building's roof, and roofline, and those of the adjacent bungalows.
7. Within an area of housing characterised by consistent ridge levels and only limited variation in the appearance of the bungalows, the proposed extension would be an incongruous and awkwardly jarring addition to the host building, and to the street scene as a whole. Thus, the proposal would not be in keeping with the surrounding area in terms of its design or resulting building height, nor would it be visually attractive, and it would therefore fail to achieve the good design quality sought by Kirklees Unitary Development Plan (KUDP) policy BE1. The general design criteria set out in KUDP policy BE2 in relation to new development, particularly at policy BE2(i), is, I conclude, equally applicable to extensions to existing buildings as it would be to new development. Moreover, KUDP policies BE1 and BE2 both reflect the provisions of the National Planning Policy Framework which seeks to secure high quality design as a core planning principle, and which the proposal would also be at odds with.
8. I note the appellant's suggestion that the increased ridge height and dormer extension is necessary to accommodate stair access to the proposed loft area. I note, too, that it is not disputed that the proposal would not have a harmful impact upon, nor be visually intrusive from, Ashfield Road, to the rear. However, these factors do not outweigh the harm to the character or appearance of the host property, or the street scene, that I have identified above.

Conclusion

9. For the reasons set out, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR

Appeal Decision

Site visit made on 25 October 2016

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 11th November 2016

Appeal Ref: APP/Z4718/W/16/3156214

107 Carlinghow Hill, Upper Batley, Batley, WF17 0AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Ahmed Variava against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2015/60/92971/E, dated 12 September 2015, was refused by notice dated 7 March 2016.
 - The development proposed is a new detached dormer bungalow.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application is in outline with all matters reserved for future consideration except for the means of access and the layout of the development. Drawings showing an indicative design of the building and landscaping were submitted with the application, and I have had regard to these in determining this appeal.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area.

Reasons

4. The appeal site is located just outside of the Upper Batley Conservation Area, the boundary of which runs along Carlinghow Hill. The conservation area comprises the older parts and core of the village of Upper Batley. It is an example of a mid-to-late Victorian suburb, albeit superimposed on a much earlier settlement. The appeal site is located in an area characterised by large detached properties sat within generous plots. These properties are generally set back from the road, giving the area a spacious and open feel.
 5. No 107 Carlinghow Hill is a large detached property that is centrally located within its plot. The dwelling's position reflects the staggered building line from west to east along Carlinghow Hill, and there is a significant amount of space between the property and the road. In contrast, the adjacent properties at Nos 109-113 have a more advanced building line closer to the road.
 6. The proposed dwelling would be located right at the front of the site. It would be significantly in advance of both the host property, and any other building on
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this side of Carlinghow Hill. It would not conform to any existing building line. The development would therefore appear unduly prominent in the street, and would be an incongruous feature. It would also interrupt the spacious and open feel on either side of Carlinghow Hill.

7. Moreover, the development would result in the creation of two dwellings within the same plot, which would be contrary to the grain of the street and the adjacent conservation area. The development would also detract from the attractive open setting at the front of the existing property.
8. Whilst the dwelling would be partially screened by existing boundary hedgerows, it would still be clearly visible from the road. It has been suggested that additional planting could be provided, although it is unlikely that the dwelling could be completely screened from view. In any event, additional planting would not mitigate the harm the development would cause to the grain and character of the area.
9. The appellant states that the new dwelling is intended to be occupied by family members, and would be retained in the same ownership. However, the application is for a new dwelling rather than an ancillary annexe. It would therefore be capable of being occupied separately of the main dwelling. In any event, this consideration would not have altered my view regarding the harm I have identified above.
10. For the above reasons, I conclude that the development would unacceptably harm the character and appearance of the area. It would therefore be contrary to saved Policies D2, BE1, and BE2 of the Kirklees Unitary Development Plan (UDP) (1999). It would also be at odds with the National Planning Policy Framework ('the Framework') which seeks to secure good design.
11. The Council also state that there would be conflict with saved Policy BE5 of the Kirklees UDP. However, this policy relates to development within conservation areas only. As the appeal site is located outside of the conservation area, Policy BE5 does not apply in this case. However, paragraph 132 of the Framework states that great weight should be given to the conservation of designated heritage assets (such as conservation areas), including to their setting. For the reasons set out above, I conclude that the development would be harmful to the setting of the conservation area, contrary to the expectations of paragraph 132 of the Framework.
12. The harm to the setting of the conservation area would be less than substantial in the context of paragraphs 133 and 134 of the Framework. Against this, the development would provide a public benefit in the form of a small contribution to the housing land supply position. However, this modest public benefit would be significantly and demonstrably outweighed by the harm the development would cause both to the character and appearance of the area and to the setting of the conservation area.

Conclusion

13. For the reasons given above I conclude that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR

Appeal Decision

Site visit made on 1 November 2016

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 10 November 2016

Appeal Ref: APP/Z4718/D/16/3156290

11 Upper Mount Street, Batley WF17 6BA

- 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 Haroon Kola against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/91961/E, dated 1 April 2016, was refused by notice dated 3 August 2016.
 - The development proposed is a loft conversion, front and rear dormer.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - The character and appearance of the host property and the surrounding area; and
 - The living conditions of occupiers of neighbouring properties, with particular reference to daylight / sunlight and outlook.

Reasons

Character and Appearance

3. The appeal property is a two storey, end of terrace dwelling that has been previously extended at the side and rear. The rear element of the property, which extends across the full width of the rear of the property, and up to the gated, shared access lane at the rear, has a dual-pitched roof with peak. There is some variety in the style and design of roofs along the rear of Upper Mount Street due, in part, to the steeply sloping nature of the terrace, but also where other properties have had roof extensions and alterations.
 4. The proposed dormer extension at the rear would extend across approximately two thirds of the rear roof slope. It would not be inset from either the common boundary with 13 Upper Mount Street, or the rear face of the existing two storey rear elevation, whilst the extensive area of flat roof would sit just below the ridge level of the existing building. Although described as a dormer extension it would, to all intents and purposes, be a second floor extension.
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5. The proposal, by virtue of its design, scale and massing, would unduly dominate the rear of the host property. It would relate poorly to the existing dwelling, and adjacent buildings in the terrace, in terms of its design and roof style, and would result in an incongruous and visually overpowering addition to the rear of the host property. Further, the scale, bulk and massing of the rear extension, particularly the second floor flank elevation, would result in the extension having an unduly dominant and incongruous presence at the rear of the terrace.
6. Although the rear extension would not be visible from Upper Mount Street itself, it would be clearly visible from the shared, gated, access lane to the rear and from a number of neighbouring properties. Whilst it may return below the ridge level of the existing dwelling, it would nonetheless not be in keeping with, or proportionate to, the existing property in terms of overall building height, or the heights and proportions of key elements of that building and those adjoining it. In failing to be in keeping with the surrounding built form in terms of its scale or mass it would also fail to secure a good quality of design.
7. Thus, for the reasons set out, I find that the proposal would cause harm to the character and appearance of the host property, and to the surrounding area. The proposal would therefore be contrary to the design intentions of policies D2, BE1, BE2 and BE13 of the Kirklees Unitary Development Plan (UDP). Together, these policies seek to ensure good quality design that contributes to a built environment that is, amongst other things, visually attractive, is in keeping with surrounding development and respects design features of the existing house and adjacent dwellings. The proposal would also be at odds with the National Planning Policy Framework (the Framework) which seeks high quality design
8. I note that subject to the use of appropriately matching materials there is no objection from the Council regarding the proposed installation of a dormer on the front roof slope of the dwelling. I agree. The construction of a dormer window extension on the front roof slope is not an uncommon form of extension on Upper Mount Street or its surrounding terraces. What is proposed in this instance would be reasonably well proportioned and sited in the context of the main front roof slope. However, the lack of harm in this respect is not sufficient to outweigh the harm that I have identified above.

Living Conditions

9. The additional height of the rear extension, and particularly that of its flank elevation, may give rise to some additional early morning overshadowing of the adjoining property at No 13. However, the aspect to the rear of this part of Upper Mount Street is generally open and the flank wall would provide a source of reflected light along the sun's path back towards the rear of No 13.
10. I noted at my visit that Nos 13 and 15 sit at a higher level than the appeal property due to the prevailing slope along Upper Mount Street. That difference in ground levels would, to some degree, offset the additional height of the flank wall of the rear extension. Given the relatively open aspect at the rear of the terrace, I am satisfied that the proposal would not cause a significant loss of daylight or sunlight to the rear of Nos 13 or 15, nor would it be overbearing upon those properties to the detriment of the living conditions of their occupiers. Thus, I conclude that the proposal would not prejudice the residential amenity or living conditions of occupiers of those properties, and I

find no conflict with UPD policy D2. However, this of itself does not outweigh the harm to the character and appearance of the host building or the surrounding that I have identified above.

Other Matters

11. I understand the appellant's desire to extend the property in order to provide additional accommodation for his family, however this reason behind the application does not persuade me to find the scheme acceptable.

Conclusion

12. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

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

Appeal Ref: APP/Z4718/D/16/3159917

138 Gomersal Lane, Little Gomersal, Cleckheaton BD19 4JQ

- 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 S Mann against the decision Kirklees Metropolitan Council.
 - The application Ref 2016/62/91588/E, dated 11 May 2016, was refused by notice dated 11 July 2016.
 - The development proposed is the erection of a single storey extension.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey extension at 138 Gomersal Lane, Little Gomersal BD19 4JQ in accordance with the terms of the application Ref 2016/62/91588/E, dated 11 May 2016, subject to the conditions set out in the schedule to this decision.

Procedural matter

2. At the site visit, I viewed the site from 154 Gomersal Lane with the consent of the occupier of this adjacent residential property and did so unaccompanied.

Main issues

3. The main issues are the effect of the proposed development, firstly, on the character and appearance of the local area; and secondly, on the living conditions of the occupiers of 154 Gomersal Lane with regard to visual impact.

Reasons

Character and appearance

4. The appeal property is a detached house that occupies a good-sized plot in a mainly residential area. Like several properties along the same side of Gomersal Lane as the site, No 138 is of individual design and is set back from the road with notable gaps between it and the buildings on either side. The diversity of built form and the spacious informal feel to the street scene positively contribute to the character and appearance of the local area. These features also add to the setting of the adjacent Little Gomersal Conservation Area (CA), the boundary of which includes Gomersal Lane but not the appeal property or those on either side of the site.
 5. The proposal is to erect a single storey extension at the rear of the existing dwelling. It would lengthen the built form of No 138, enlarge its footprint and
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add to its scale and mass. Nevertheless, compared to the existing dwelling the new addition would be modest in scale, bulk and height with a ridgeline set below that of the existing side addition to which it would attach. Consequently, the proposed development would be clearly subordinate to the existing house and the sense of space around the rear and side of the host building would be retained with the new built form in place.

6. The new addition would project further into the garden than the conservatory on the opposite side of the rear façade and the dual pitched roof would be at 90-degrees to that of the existing side addition. However, there would be no visual disharmony because the proposal would be a proportionate addition. The shape and pitch of the new roof would reflect that of the existing 2-storey rear gable and the external materials would match the existing dwelling. As a result, the appeal scheme would not undermine the design or form of the existing dwelling even taking into account the various external alterations and extensions that have been carried out. Taken together, the proposal would relate reasonably well to the character and appearance of the host building.
7. When seen from Gomersal Lane, the new extension would elongate the flank wall of the existing side addition, although it would be seen with the far more substantial host building just to one side. In that context, the side elevation of the finished building would not appear overly long, large or bulky. From the road, the oblique angle of view would cause the proposal to appear to reduce the gap between No 138 and the adjacent property, which is 154 Gomersal Lane, by introducing additional built form. Even so, No 154 is noticeably set back from the common boundary with the site and the new roof slope would angle away from this neighbouring property. Consequently, sufficient space would be retained to preserve the visual break between the finished dwelling and No 154. This arrangement would ensure that these buildings would continue to be viewed in the local street scene as separate, distinct entities because there would be a clear gap between them. As a result, the sense of openness in the local street scene with adjacent buildings that are well spaced apart would be maintained.
8. On the first main issue, I therefore conclude that the proposed development would not materially harm the character or appearance of the host building or the local area. The setting of the adjacent CA would be preserved. As such, there is no material conflict with Policies D2, BE1, BE2, BE13 and BE14 of the Kirklees Unitary Development Plan (UDP). These policies aim to ensure that development achieves good quality design, respects the style of the existing house, and does not prejudice visual amenity or the character of the area. It also accords with the National Planning Policy Framework (the Framework), which places considerable emphasis on securing high quality design. The Framework also notes that development should respond to local character and add to the overall qualities of an area.

Living conditions

9. The upper part of the new addition would project noticeably above the wall and hedgerow that mark the shared rear boundary with No 154. As a result, the proposal would be visible from the windows of No 154 that face towards the site and some of its garden. That the proposal would occupy an elevated

position in relation to No 154 due to the notable difference in ground levels would accentuate its visual impact when seen from this neighbouring property.

10. Nevertheless, the existing boundary wall and hedgerow would partly shield and visually soften the new development in views from No 154. While the existing vegetation is not a permanent feature, I attach some weight to a significant landscape feature between Nos 138 and 154. Taken together with the modest scale and height of the development proposed, the set back position of No 154 from the common boundary with the site, and having viewed the site from this adjacent property, I consider that the new addition would not overbear on the occupiers of this neighbouring dwelling.
11. On the second main issue, I therefore conclude that the living conditions of the occupiers of No 154 would not be significantly harmed by the proposal. As such, I find no material conflict with UDP Policies D2 and BE1 insofar as they aim to safeguard residential amenity. It would also be in accordance with a core principle of the Framework, which is to always seek to secure a good standard of amenity for all occupants of land and buildings.

Conditions

12. In addition to the standard time limit condition, it is necessary to impose a condition that requires the development to be carried out in accordance with the approved plans for certainty. To ensure the satisfactory appearance of the finished building, a condition is imposed to require that the external materials of the extension match those of the existing dwelling. To safeguard the amenity of the occupiers of No 154, permitted development rights are removed exceptionally for any windows in the east elevation of the new extension. These conditions largely reflect those suggested by the Council.

Conclusion

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

Gary Deane

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Refs 16/37 Site Plan, 16/37 Existing Plans, 16/37 Proposed Extn and the Location Plan, which shows the site edged red.
- 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows shall be constructed on the east elevation of the extension hereby permitted.

Appeal Decision

Site visit made on 23 November 2016

by S J Lee BA(Hons) MA MRTPI

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

Decision date: 29th November 2106

Appeal Ref: APP/Z4718/W/16/3157630

Shama Restaurant, 192 Leeds Road, Heckmondwike WF16 9BF

- 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 Shama Restaurant against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/91821/E, dated 23 May 2016, was refused by notice dated 14 July 2016.
 - The development proposed was originally described as "Retrospective erection of 3 no plastic trees".
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Decision

1. The appeal is dismissed.

Preliminary matter

2. There is no dispute that the development has been carried out, and I observed that work in accordance with the submitted plans was in place at the time of my visit. I have, therefore, considered the appeal as being against the refusal of retrospective planning permission.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the surrounding area.

Reasons

4. The appeal site comprises the customer car park of the 'Shama' restaurant. It is located on the corner of Leeds Road and White Lee Road, which forms part of a traffic light controlled crossroads. The site is bounded by a low stone wall. The restaurant is at the end of a long row of residential dwellings strung out along Leeds Road. Development fronting White Lee Road opposite the site and Houldsworth Avenue directly behind the car park are also residential in nature. The houses in the area are a mixture of redbrick and stone. On the opposite side of Leeds Road are a number of detached buildings which appear to relate primarily to agricultural activity and open fields. The area in general has a semi-rural village character.
 5. The 'trees' are not subtle features in the street scene. They are relatively tall, clearly plastic in construction and are of a bright vivid green colour. There is no pretence at all at being seen as a realistic facsimile of a palm tree or seeking to blend into the environment. This is perhaps to be expected in
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features which it would be reasonable to assume have been designed primarily to promote commercial activity. The materials used, their bright colour and the fact they light up are all characteristics designed to draw the eye. In this regard, they are successful.

6. However, whatever the purpose of the trees, any form of development must have proper regard to the character of the surrounding area. Leeds Road is a busy main road, but this does not alter the fact that the site is within a predominantly residential area in a semi-rural village environment. This is not a town centre location where there may be a predominance of illuminated signage and vibrant commercial activity. While there was some evidence of business uses further along Leeds Road, these are neither significant in scale or particularly close to the site. There are no other features of a similar nature in the area and thus the trees do not have a complementary visual relationship with any other built or natural element of the local environment.
7. As a result of their strident and striking colour and their overt artificial appearance, the trees are prominent features that create a jarring contrast with the nearby housing. As such, they are clearly incongruous and unsympathetic structures that are not appropriate in this location. The detrimental impact of the trees on local character is further exacerbated by the relatively open aspect of the car park and the position it takes up on a busy junction. While the presence of some houses around the junction provides limited screening in the lead up to the car park, once the site opens up, the trees are highly conspicuous both in terms of their overall prominence and incompatibility with the general character of the area.
8. While I did not observe the trees when they were illuminated, the photographic evidence provided by both the appellant and interested parties only adds to my view that they are unsympathetic and inappropriate additions to the local street scene. I find, therefore, that the development materially harms the character and appearance of the area. Accordingly, there is conflict with saved policies D2, BE1 and BE2 of the Unitary Development Plan¹ which seek, amongst other things, to ensure development is of a good standard of design, is visually attractive and does not prejudice the character of the surrounding area. I also find conflict with paragraphs 17 and 64 of the National Planning Policy Framework insofar as the development is of a poor design which would fail to take the opportunity to improve the character of the area.

Other matters

9. The appellant has suggested that the trees are required to provide additional lighting in the car park in the interests of the safety of their customers. The need for this has been disputed by the Council and interested parties. However, even if there were a need for additional lighting, there are alternative approaches that would not have such a negative impact on the character or appearance of the area. As such, this has carried little weight in my decision.

Conclusion

10. For the reasons given above I conclude that the appeal should be dismissed.

S J Lee INSPECTOR

¹ Kirklees Unitary Development Plan – Revised with effect from 28 September 2007 (Adopted 1 March 1999)

Appeal Decision

Site visit made on 25 October 2016

by Beverley Wilders BA (Hons) PgDurt MRTPI

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

Decision date: 30 November 2016

Appeal Ref: APP/Z4718/W/16/3155616

Land to the rear of 481 Hunsworth Lane, East Bierley BD4 6RN

- 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 A Heron against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2015/62/93545/E, dated 29 October 2015, was refused by notice dated 30 December 2015.
 - The development proposed is an agricultural building.
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Decision

1. The appeal is allowed and planning permission is granted for an agricultural building at Land to the rear of 481 Hunsworth Lane, East Bierley BD4 6RN in accordance with the terms of the application, Ref 2015/62/93545/E, dated 29 October 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan and 14/52/C Revision E.

Procedural Matter

2. The Council's Decision Notice refers to drawing number 14/52/C Revision D. However drawing number 14/52/C Revision E has also been submitted with the appeal. I note that the proposed building as shown on drawing 14/52/C Revision E is the same as that shown on the earlier revision with the only change to the drawing appearing to be the addition of dimensions for the steel frame. The revised drawing does not materially alter the proposal and as such I have had regard to it in reaching my decision.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect of the proposal on the character and appearance of the area.
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Reasons

Whether the proposal is inappropriate development

4. The appeal site comprises a piece of land and associated vehicular access located to the rear 481 Hunsworth Lane. The land forms part of a wider agricultural holding and the appeal site is located within the Green Belt. The proposal is to construct a detached agricultural building which would be used for cattle pens and for an implement and food store and an associated yard and parking area. Planning permission was initially granted for an agricultural building on the appeal site in 2014 (Ref 14/92268) with a modified proposal granted planning permission in 2015 (Ref 15/90968). The proposal seeks a further modification to the agricultural building approved in 2015.
5. Paragraph 89 of the Framework states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. An exception to this includes buildings for agriculture and forestry.
6. The Council has previously accepted the need for an agricultural building on the appeal site by the granting of planning permission (Refs 14/92268 & 15/90968). The appellant states that the proposed building is to be used for the housing of rare breed cattle and that it has been designed to meet the needs of the cattle which are currently housed in rented buildings nearby. The size of the proposed building has been increased slightly from that approved in 2015 to improve animal welfare and mucking out arrangements. At the time of my visit I saw cattle on the appeal site and on the adjoining land, including young cattle.
7. Though I have had regard to the concerns raised by the Council about the justification for the proposed building, I am satisfied that it has been designed for agricultural purposes. I therefore conclude that the proposal would not be inappropriate development in the Green Belt and that it complies with relevant paragraphs of the Framework. These policies seek, amongst other things, to prevent inappropriate development in the Green Belt.

Character and appearance

8. The proposed building would be set back from Hunsworth Lane, some distance to the rear of No 481 and its neighbouring dwelling. It would be designed for agricultural purposes and constructed from appropriate materials. Though it would be visible from various vantage points along the road and from the rear of nearby dwellings, it would not be particularly prominent and I do not consider that its size, scale or appearance would cause harm to the character and appearance of the area.
9. Taking the above matters into consideration, I conclude that the proposal would not have an adverse effect on the character and appearance of the area. It therefore complies with policies BE1 and BE2 of the Kirklees Unitary Development Plan. These policies seek, amongst other things, to ensure that development is of a good quality design and that it is in keeping with surrounding development.

Conditions

10. No conditions have been suggested by the Council. However I have imposed a condition specifying the approved plans as this provides certainty.

Conclusion

11. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed.

Beverley Wilders

INSPECTOR

Appeal Decision

Site visit made on 25 October 2016

by Beverley Wilders BA (Hons) PgDurp MRTPI

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

Decision date: 30 November 2016

Appeal Ref: APP/Z4718/W/16/3155647

Land to the east of Field Head Lane, Birstall, Batley WF17 9LJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Yvonne Lindley-Ree (Lindley Ree Properties) against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/60/91205/E, dated 8 April 2016, was refused by notice dated 7 June 2016.
 - The development proposed is the erection of 9no. dwellings on 0.30ha of land to the east of Field Head Lane, Birstall.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is for outline planning permission with approval being sought for access, landscaping and layout at this stage. Appearance and scale are reserved matters. A proposed site plan was submitted with the application and I have had regard to this in reaching my decision.
3. The Planning Statement submitted with the application on behalf of the appellant acknowledged that the site is identified as being within the Green Belt on the Kirklees Unitary Development Plan (UDP) proposals map. However notwithstanding this, in the grounds of appeal the appellant states that the appeal site is not in the Green Belt. I have been provided with a copy of an extract from the UDP proposals map by the Council and I am satisfied that the appeal site is located within the Green Belt.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the character and appearance of the area;
 - Whether the proposal would provide satisfactory living conditions for future occupiers of the dwellings having regard to noise levels within external amenity spaces;
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- The effect of the proposal on flood risk;
- The effect of the proposal on the Council's housing land supply;
- If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

Whether the proposal is inappropriate development

5. The appeal site comprises a roughly rectangular shaped piece of land located adjacent to Field Head Lane. At the time of my visit the site was largely grassed and overgrown and no remnants of previous development or buildings were visible. However from the available evidence it appears that there was previously a building on part of the site and that it was most recently used as a pet food distribution and storage facility. However it appears that this use ceased sometime before 2000 when the appellant purchased the appeal site. I understand that the remains of the building are still on site and that it was located on an area of hardstanding. The appeal site is located in the Green Belt.
6. Paragraph 89 of the Framework states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. An exception to this includes limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development.
7. The Planning Statement submitted with the application on behalf of the appellant stated that the proposal was considered to be inappropriate development in the Green Belt as it would have a greater impact on the openness of the Green Belt than the existing development. Though I note that in the grounds of appeal the appellant states that the proposal would have no impact on openness, having regard to the scale of development proposed compared to the most recent development on site, I consider that the proposal would have a greater and significant impact on the openness of the Green Belt. In addition having regard to the largely undeveloped nature of the appeal site and to the scale of built development proposed, it would also involve encroachment into the countryside and, consequently would conflict with the purposes of including land in the Green Belt. This would also weigh against the proposal.
8. Taking the above matters into consideration, I conclude that the proposal would be inappropriate development in the Green Belt, would reduce the openness of the Green Belt and would conflict with the purposes of including land in it. The proposal is therefore contrary to paragraphs 79, 80 and 89 of the Framework.

Character and appearance

9. As stated, the appeal site is currently overgrown, with part of the site containing the remnants of a building previously used for commercial purposes.

The site is adjacent to and visible from Field Head Lane with the immediate surrounding area containing both residential and commercial buildings of various sizes and designs, the A650 Bradford Road and the M62 motorway.

10. Although the surrounding area is mixed in character, the appeal site is prominent and the proposed development of 9 dwellings and associated access road would result in a high density development allowing little scope for any meaningful landscaping, particularly to the site boundaries. The proposed dwellings either side of the access road would be located much closer to Field Head Lane than surrounding development and a number of the dwellings would be located very close to the appeal site boundaries. Consequently I consider that the development would appear cramped and out of keeping with the character and appearance of the area which is generally characterised by buildings set further back from the road and in larger plots.
11. Additionally the position and orientation of the proposed dwellings and the size and position of the proposed access road would result in a development of a poor quality design that is not visually attractive and which would be dominated by the access road.
12. Taking the above matters into consideration, I conclude that the proposal would adversely affect and would result in significant harm to the character and appearance of the area. It is therefore contrary to Policy BE1 of the UDP and to relevant paragraphs, in particular paragraph 64, of the Framework. These policies seek to ensure, amongst other things, good quality design that improves the character and quality of an area.

Living conditions

13. As stated, the appeal site is located close to a number of roads and commercial premises. A Noise Impact Assessment (NIA) dated March 2016 was submitted with the application.
14. The NIA states that for all perimeters of the site, predicted noise levels exceed the noise limits for residential amenity set out within BS 8233:2014 Sound Insulation and Noise Reduction for Buildings. Whilst it appears that the impact of noise on living conditions within the proposed dwellings could be mitigated, based on the available evidence it is not clear that this would be the case for the external amenity areas of the proposed dwellings. The NIA states that dependent on the site layout and use of boundary fencing, it is likely that some external amenity areas may be able to comply with the recommendations but that this would need to be reviewed by means of an acoustic modelling exercise. It does not appear that any such exercise has been carried out.
15. Approval for layout is being sought at this stage and I note that the majority of the proposed dwellings are positioned very close to the appeal site boundaries where the NIA found noise levels to exceed the recommendations within BS 8233:2014. Having regard to this and in the absence of an acoustic modelling exercise having been carried out, I am not satisfied that the proposal would provide satisfactory living conditions for future occupiers of the dwellings having regard to noise levels within external amenity spaces and the proposal would be likely to result in significant harm to living conditions. It is therefore contrary to Policy EP4 of the UDP which states that proposals for noise sensitive development in proximity to existing sources of noise will be

considered taking into account the effects of existing noise levels on the occupiers of proposed noise sensitive development.

Flood risk

16. The proposal would increase the amount of built development and hard surfacing on the appeal site compared to the previous development. No formal assessment of flood risk has been provided to support the proposal. Whilst there is anecdotal evidence from interested parties as to poor surface drainage, the objection from the Council's Flood Management Team concerned a lack of information rather than an objection in principle. Moreover it appears that soakaways are thought to be viable on the site.
17. Nevertheless, the proposal as it stands fails to show that issues relating to flood risk could be addressed, as required by paragraph 103 of the Framework. This carries moderate weight against the proposal.

Housing Land Supply

18. Both main parties agree that the Council cannot currently demonstrate a five year supply of deliverable housing sites. The Planning Statement submitted with the application refers to the Council's Annual Monitoring Report 2012/13 which states that the Council has a 2.45 year housing land supply. This figure has not been disputed by the Council though I am advised that the Council is currently preparing an up to date housing land supply position.
19. Having regard to the housing land supply shortfall of the Council and to the fact that 9 dwellings are proposed, I consider that the proposal would make a moderate contribution to the Council's housing land supply.

Other considerations

20. The appellant argues that the proposal would visually improve the entrance to Birstall as in its current state it forms an 'eye sore' in a prominent gateway location. However whilst I acknowledge that at the time of my visit the site was unkempt and overgrown, in my view it does not have a significant adverse effect on the character and appearance of the area. This together with the concerns that I have regarding the particular scale and layout of the proposal means that I do not consider that it would improve the visual appearance of the area.
21. The proposal would facilitate the safe removal of asbestos from the appeal site and would deliver some ecological improvements from the provision of bird boxes and new planting. It appears that these benefits are unlikely to occur without the site being re-developed, albeit not necessarily at the scale proposed, and as such would be modest benefits arising from the proposal.
22. Part of the appeal site is previously developed land, it is in a reasonably accessible location and the provision of housing on the site would help to meet the demand for housing in the Batley and Spen sub-area as identified in the Council's 2015 Strategic Housing Market Assessment. It would also provide revenue for the Council through the New Homes Bonus (NHB) though there is no evidence regarding whether the Council would use the revenue in a way which is material to the development being proposed. The Planning Statement submitted with the application states that affordable housing may be provided subject to discussions regarding viability.

23. As stated, the provision of 9 dwellings would make a moderate contribution to the Council's housing land supply and this would be a modest benefit arising from the proposal. Given the uncertainty regarding affordable housing provision and the lack of evidence regarding the NHB I cannot be certain that these would be benefits associated with the proposal.
24. The proposal would also provide some modest economic benefits by providing employment during the construction period and by supporting the local economy.
25. Finally I note that the application followed pre-application discussions with the Council and the appellant's willingness to amend the proposal in order to overcome any concerns raised in relation to it. I also note that reference has been made by the appellant to other development in the locality. However I am not aware of the details or particular circumstances relating to these developments and I must determine the proposal on its own merits and as shown on the submitted plans.

Conclusion

26. As set out in the Framework at paragraphs 14 and 49, housing applications should be considered in the context of the presumption in favour of sustainable development, unless specific policies indicate development should be restricted. This proposal concerns land designated as Green Belt, where footnote 9 of the Framework indicates development should be restricted.
27. Paragraph 87 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.
28. The proposal is inappropriate development and it would result in significant harm to the character and appearance of the area and to the living conditions of future occupiers of the dwellings and would result in moderate harm having regard to flood risk.
29. The proposal would make a moderate contribution to the supply of land for housing and there would be some modest economic and environmental benefits arising from it. However I find that these other considerations are not sufficient to clearly outweigh the harm that I have identified. Consequently the very special circumstances necessary to justify the proposal do not exist and it does not represent sustainable development.
30. The proposal is contrary to relevant paragraphs of the Framework and to policies BE1 and EP4 of the UDP. Having regard to all matters raised, I conclude that the appeal should be dismissed.

Beverley Wilders

INSPECTOR