



Appeal Decision

Site visit made on 26 September 2017

by **Gwyn Clark BSc DipTP MRTPI**

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

Decision date: 30th October 2017

Appeal Ref: APP/Z4718/W/17/3178385

**Bread and Butter, 19 Slaithwaite Road, Thornhill Lees, Dewsbury
WF12 9DL**

- 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 I Ishaq against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/93270/E, dated 15 September 2016, was refused by notice dated 7 April 2017.
 - The development is change of use from Retail (A1) to Mixed Use (A1 Retail/B1c Light Industrial).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the development on highway safety.

Reasons

3. No 19 Slaithwaite Road is an end of terrace dwelling used as a sandwich shop and, since around 2013, a business for the making up of sandwiches for sale elsewhere. It is situated on the corner of Slaithwaite Road and Thornie View. Slaithwaite Road appeared to me to be a busy classified road (the B6177) which is subject to a 30 mph speed limit. Thornie View is a short, truncated road that gives access to Park View, a narrow road that serves the rear of the terrace and to another row of terraced houses lying immediately behind.
4. There is a pedestrian crossing a short distance from the appeal site along Slaithwaite Road. This gives a safe point of crossing for pedestrians walking to and from the nearby Thornhill Lees Infants and Nursery School. The School has no public car park and Thornie View is the nearest opportunity for visitors to park off the main road.
5. Thornie View also offers the main opportunity for vehicle parking associated with the business. This is because to the rear Park View is narrow and provides access to hardstandings and garages serving houses on both sides of the road. Parking on the main Slaithwaite Road is deterred due to the presence of the pedestrian crossing and the junction with Thornie View. There are three houses on Thornie View itself, which would add to the demand for parking along this road, and another junction with a back lane that provides access to the

- properties further along Slaithwaite Road which further reduces the available parking space.
6. A total of 11 full time workers are employed in the business. The majority are local and may therefore walk to work. However no evidence has been provided to show that this is the case or how this could remain the same in the future. This also leaves a significant minority of employees who may use a vehicle to travel to work. Nor has a traffic and car parking survey been undertaken. This would provide evidence that could support the assertion that the traffic profile of the business is no different to that of a typical three bedroomed dwelling or alternative A1 retail use. The fact that in the last five years there has only been one reported road traffic accident in the vicinity is significant but traffic and car parking surveys would have greater weight in demonstrating that the junction of Thornie View with Slaithwaite Road can operate safely.
 7. In addition to employee vehicles three delivery vehicles associated with the business make visits to the premises between the hours of 9:00 and 14:00. Customers of the shop would also compete for the limited car parking space. It is unclear what effect the suggested conditions limiting the time of operation of the business and the times of delivery would have on this.
 8. At the time of my site visit, which presents merely a snap shot in time, car parking space in the vicinity was limited. A van occupied the off-road vehicle parking space at the rear of the appeal property. A second van was for a short time parked on the road alongside the rear yard and several other cars were parked along Thornie View. I also have regard to third party representations submitted by neighbours and the nearby School. These representations refer to congestion occurring in the vicinity of the appeal premises and at peak times due to the pressure placed by parents on the available parking space when dropping off and collecting their children.
 9. Overall, the evidence leads me to conclude that the limited availability of off-road vehicle parking and the scale of the business operated from the appeal premises would cause congestion at and around the junction of Slaithwaite Road and Thornie View and that this would pose to a significant risk to highway safety. This would be contrary to policy T10 of the Kirklees Unitary Development Plan 2007 which states that development would normally not be permitted if it creates or materially adds to highway safety problems.
 10. The business makes a significant contribution toward the economy of the area, offers significant employment opportunities and a much valued service. At the heart of the National Planning Policy Framework lies a presumption in favour of sustainable development and paragraph 32 of the Framework says that development should only be refused on transport grounds where the residual cumulative impacts of the development are severe. However on the basis of the evidence I consider that the business operating from this location does cause significant harm to highway safety and that this harm outweighs these benefits. I conclude that the appeal should be dismissed.

Gwyn Clark

INSPECTOR



Appeal Decision

Site visit made on 17 October 2017

by **Katie McDonald MSc MRTPI**

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

Decision date: 15th November 2017.

Appeal Ref: APP/Z4718/W/17/3177245

21 Northfield Lane, Highburton, Huddersfield HD8 0QT

- 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 T Wetton against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/90828/E, dated 8 March 2017, was refused by notice dated 4 May 2017.
 - The development proposed is the demolition of existing outbuildings and erection of new annexe accommodation associated with 21 Northfield Lane, Highburton, Huddersfield HD8 0QT.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing outbuildings and erection of new annexe accommodation associated with 21 Northfield Lane, Highburton, Huddersfield HD8 0QT at 21 Northfield Lane, Highburton, Huddersfield HD8 0QT in accordance with the terms of the application, Ref 2017/62/90828/E, dated 8 March 2017, subject to the conditions set out in the attached Schedule.

Main Issue

2. The site is within the Green Belt. Accordingly, the main issue is whether the proposal is inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework (the Framework).

Reasons

3. The Government attaches great importance to Green Belts. The Framework sets out the construction of new buildings should be regarded as inappropriate in Green Belt. Exceptions to this are set out in Paragraph 89 of the Framework, one being the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
4. The proposal seeks to demolish 2 existing outbuildings and replace them with annex accommodation. One of the buildings is a stone garage and the other is a timber structure, formerly used as stables. Whilst the proposed use is not exactly the same as existing, the buildings are in an ancillary domestic use overall and this would continue. The Council agree this policy test is met.
5. In part, the replacement building would replicate the dimensions of the stone garage. The length of the timber structure would be reduced and the concrete

plinth is proposed to be removed. However, the proposal would be wider and taller than the timber structure, and would infill the current gap between buildings.

6. Based on the appellant's unchallenged calculations the increase in footprint would be relatively marginal when comparing the total existing and proposed footprints. The increase in height of the timber shed would have more of an effect upon the overall size, yet it would not be significantly taller than the existing timber shed and would maintain the height of the stone garage. Furthermore, the infilling of the gap would consolidate the built form and would not result in a significant increase in bulk.
7. Therefore, whilst the scheme does increase in size, I find that it would not be materially larger than the buildings it replaces. Thus the proposal would not constitute inappropriate development within the Green Belt, and falls within the exceptions set out in Paragraph 89 of the Framework. Since there is no Green Belt harm, there is no need to identify very special circumstances or assess the effect of the development upon openness.

Others Matters

8. The Council refers to an extant planning permission that is smaller than the proposal but I have few details of that scheme before me. Whilst the Council has made a comparison between the extant permission and the proposal, the Framework is clear that is not the correct comparison to be made. As I have found this proposal is not inappropriate development, the appellant could implement either permission, but not both.
9. I agree with the Council that the proposal would have an acceptable effect upon the character and appearance of the area, being constructed from materials similar to the dwelling, in compliance with Policies BE1 and BE2 of the Kirklees Unitary Development Plan (March 1999) (UDP), which seek to ensure that all development is of good quality design in keeping with any surrounding development.

Conditions

10. The approved plans and supporting information are listed for certainty. The site is defined as a Development High Risk Area by the Coal Authority, and unrecorded shallow mine workings within the Black Bed Coal seam pose a high risk of instability to development at the site. Therefore, a condition for intrusive site investigations, and if necessary remediation, is required to ensure the safety and stability of the proposed development. The condition is required to be a pre-commencement condition as it is imperative the condition is satisfied before development commences.
11. To ensure a satisfactory appearance, I shall attach a condition which requires materials to be constructed in line with those detailed on the plans. A condition to restrict the use to annex accommodation is required to ensure the building remains as annex accommodation, and is not used as a separate dwelling.
12. The Council raise concerns over the extent of domestic curtilage and that permitted development rights have been removed on a previous application. However, I have not removed permitted development rights on this proposal as I do not find that such a condition would not meet the 6 tests set out in the Framework. The Council request that restrictions are imposed on the blue edge

which to my mind only indicates ownership (not necessarily curtilage) and thus is not directly related to the development permitted. The Planning Practice Guidance indicates that conditions restricting the future use of permitted development rights should only be used in exceptional circumstances and I do not find those exist here.

13. I have also not included conditions requiring bat and swallow boxes as they are proposed on the plans and condition 2 requires the development to be carried out in accordance with the approved plans. Additionally, because I have been presented with no reasons why the development would be unacceptable without bat and swallow boxes, I do not consider it necessary to require their retention.

Conclusion

14. For the reasons above, the proposal would not be inappropriate development in the Green Belt. It is therefore acceptable, and in compliance with the guidance in the Framework and Policies BE1 and BE2 of the UDP; and the appeal succeeds.

Katie McDonald

INSPECTOR

Schedule of 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 approved plans 3096(LP)01 Rev A, 3140(PL)01, 3140(PL)02, 3140(PL)03, 3140(PL)04 and 3140(PL)05.
- 3) The development hereby permitted shall be carried out in accordance with the Coal Mining Risk Assessment prepared by Rogers Geotechnical Services Ltd August 2016.
- 4) No development shall take place until a scheme of intrusive site investigations has been submitted to and approved in writing by the local planning authority. Prior to commencement of development, the approved scheme of intrusive site investigations shall be undertaken and the findings submitted to and approved in writing by the local planning authority. If any land instability issues are found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development takes place.
- 5) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan no. 3140(PL)05.
- 6) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 21 Northfield Lane, Highburton, Huddersfield HD8 0QT.



Appeal Decision

Site visit made on 15 November 2017

by Graham M Garnham BA BPhil MRTPI

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

Decision date: 23 November 2017

Appeal Ref: APP/Z4718/D/17/3184739

28 Lower Lane, Gomersal, Cleckheaton, BD19 4HZ

- 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 Ms Jude McKaig against the decision of Kirklees Metropolitan Council.
 - The application Ref 2017/62/91660/E, dated 12 May 2017, was refused by notice dated 23 August 2017.
 - The development proposed is ground and first floor extension to the rear.
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Decision

1. The appeal is allowed and planning permission is granted for ground and first floor extension to the rear at 28 Lower Lane, Gomersal, Cleckheaton, BD19 4HZ in accordance with the terms of the application Ref 2017/62/91660/E, dated 12 May 2017, subject to the following 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: numbers 1603-D-20- 001, 002A, 003, 004A & 005.
 - 3) The materials to be used in the construction of the external surfaces of the extensions hereby permitted shall match those used in the existing building.

Main Issue

2. I consider that this is the effect of the proposal on the living conditions of the occupiers of no.26 Lower Lane, with regard to an overbearing and oppressive impact.

Reasons

3. The Council has not objected to the ground floor part of the proposal. The officer report says that planning permission has been given for an extension projecting 6 metres, as is now proposed. I have no reason to take a different view, and so shall confine my consideration to the upper floor part of the proposal. This would project outwards 3 metres, to almost the full width of the house.

4. Nos 28 & 26 form a pair of stone-built houses with accommodation on 3 floors. The land rises to the rear, and the ground floor part of the proposal would involve significant excavation. Both floors of the extension would have a pitched roof and a gable end. The whole of the first floor roof would be below a second floor rear window next door. There are no first floor rear windows. The principal impact on living conditions within the house next door would be to glazed double doors on the ground floor, close to the common boundary. From visiting no.26, I doubt that the upper part of the side of the first floor extension could be seen from within the next door house. Its outer limit would be seen (and the further 3 metres of ground floor extension beyond). To this extent, there would be a limited effect on outlook.
5. However, the appellant also draws attention to what is referred to as a "worst-case scenario" that could be built. This would be a ground floor extension along the boundary, 4 metres high and projecting 6 metres. Although it is not referred to in so many words, this may be permitted development. It is said that the actual height of the eaves of the second floor extension would only be around 4.5 metres high, next to the house. I consider that, from within no.26, the additional half metre or so above the "worst-case" scenario would not be noticeable. However, beyond 3 metres out, this "worst-case" scheme would have significantly more impact than the proposed ground floor eaves line. I estimate the latter would be only about 2.5 metres above ground level as measured next to the house, reducing considerably as the garden rises away from the building.
6. Overall, I consider that with a projection limited to 3 metres, and rising ground to the rear, the effect on outlook next door would be not be unreasonable. In addition, the officer report says that the projection would be in line with Policy BE14 in the Kirklees Unitary Development Plan [UDP] (2007). This says that rear extensions not exceeding 3 metres are normally permitted. Moreover, on balance, I consider that the effect would not be materially worse than the "worst-case" scenario referred to, which it would seem possible to build.
7. Planning permission should be subject to the use of matching materials, to reflect the traditional stonework and roofing materials used in this attractive pair of houses. I also impose a condition specifying the relevant drawings as this provides certainty. No special measures are needed with respect to the protected trees to the rear, as they would not be affected by the proposal.
8. I conclude that the proposal would not give rise to significant harm to the living conditions of the occupiers of no.26 Lower Lane, with regard to an overbearing and oppressive impact. There would be no material conflict with UDP Policy D2, cited in the Council's reason for refusal, which requires proposals not to prejudice residential amenity.
9. Planning permission can therefore be given, subject to conditions, and I allow the appeal.

G Garnham

INSPECTOR