



Appeal Decision

Site visit made on 8 October 2019 by L Wilson BA (Hons) MA

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2019

Appeal Ref: APP/Z4718/D/19/3234772

78a Westgate, Cleckheaton, BD19 5HH

- 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 Luke Clough against the decision of Kirklees Metropolitan Council.
 - The application Ref 2017/62/93517/E, dated 5 October 2017, was refused by notice dated 11 July 2019.
 - The development proposed is described as securing a 1.5 Metre fence on-top of the Coping stones of the dry-stone wall running along the boundary wall at the front of the property and fitting a gate in place with a post box so no access required.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The application that led to this appeal is retrospective. The main issue is the effect of the fence on the character and appearance of the street scene, and linked to that, whether the proposal compromises security.

Reasons for the Recommendation

4. No. 78a is a two-storey semi-detached dwelling. The property and garden sit higher than the highway. In the street scene there are commercial uses and residential properties; a range of boundary treatments are present which includes fencing, hedging and walls. The Council state the front boundary previously consisted of a number of established shrubs with open views into the front garden area, this is not disputed by the appellant.
5. The solid timber fence runs along the front boundary of the site and sits above the boundary wall. The fence appears in stark contrast to the adjoining boundary treatment. Due to the fence's solid design, height, length and siting in a prominent location it has a harmful impact upon the street scene as it appears as a dominant and incongruous feature. The applicant states they intend to treat the fence and add hanging baskets, although this would improve the appearance of the fence it would not overcome the harm identified.

6. Whilst the fence might reduce natural surveillance there is nothing before me to indicate that it has, or would, compromise the security of the property. The first-floor windows of no. 78a overlook the garden and Westgate, additionally there are a number of properties which have windows facing the dwelling. The appellant considers the fence improves security and safety, prevents litter, help confine their pet dog and deter people from sitting on the wall. Nonetheless, the development has a visually harmful effect upon the quality of the street scene given the location of the fence. These considerations do not justify visually harmful development.
7. The appellant states they will erect the fence behind the boundary wall if the appeal is dismissed. Be that as it may, even if there is a realistic prospect of a fence being erected under permitted development rights, the appeal fence has a harmful effect upon the street scene.
8. For these reasons, the development has an unacceptable visual effect on the character and appearance of the street scene. Consequently, it conflicts with Policies LP2 and LP24 of the Kirklees Local Plan Strategy and Policies (2019) and the National Planning Policy Framework.

Conclusion and Recommendation

9. On the available evidence the fence does not compromise the security of the property. However, the development has a significant adverse visual effect on the character and appearance of the street scene to which I attach significant weight. For the reasons given above, I recommend that the appeal should be dismissed.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

10. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I too agree and conclude that the appeal should be dismissed.

A U Ghafoor

INSPECTOR



Appeal Decision

Site visit made on 13 August 2019

by R Cooper BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st October 2019

Appeal Ref: APP/Z4718/W/19/3223317

1, Rear of Yew Tree Road, Shepley, Huddersfield HD8 8DT

- 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 Louise Denning against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/60/93850/E, dated 20 November 2018, was refused by notice dated 17 January 2019.
 - The development proposed is a detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with approval of access and layout being sought, and appearance, landscaping and scale reserved for future consideration. I have dealt with the appeal and considered the submitted plans on this basis.
3. The Council's decision notice refers to Policies D2, BE1, BE2 and BE12 of the Kirklees Unitary Development Plan (the UDP). The Kirklees Local Plan (the Local Plan) was adopted on 27 February 2019 and replaces the UDP which has now been superseded. The Council have provided the relevant up to date Policies with their Statement of Case, and I am satisfied that there has been an adequate opportunity for those interested in the appeal to address the updated policy position.

Main Issues

4. The main issues are the effect of the development on the character and appearance of the area, and the living conditions of adjacent occupiers with particular regard to outlook and privacy.

Reasons

Character and Appearance

5. The appeal site is located in Shepley, a village characterised by undulating topography, and traditional period sandstone terraced dwellings. The prevailing pattern of development is partly characterised by rows of terraces that line the street. The appeal site is located in between two separate terraces of 1 to 21 Yew Tree Road and 33 to 51 Yew Tree Road. These are both traditional sandstone terraces, each dwelling having a garden plot which

they overlook, separated by a shared access track, this layout is typical of these period properties and contributes to the distinctive character and appearance of the area. Due to the topography of the area, the appeal site is at a prominent elevated position, above 33 Yew Tree Road.

6. Whilst the proposal is outline, the appellant seeks approval of the access and layout, and has submitted a layout plan which shows how the dwelling would be positioned within the site, and its relationship with surrounding properties. The siting of the dwelling behind Nos 1- 21 would not respect the prevailing pattern of existing buildings surrounding the site. Furthermore, a detached dwelling would not be in keeping with the terraced style of dwellings which surround the site and given its elevated position it would appear as an incongruous feature within its surroundings.
7. The proposed dwelling would be to the side of number 31 Yew Tree Road, which forms part of another terrace. However, irrespective of the site being adjacent to another dwelling it still falls behind the building lines identified above and would not respect the character and appearance of the area for that reason.
8. Consequently, the proposed dwelling would result in an incongruous feature, that would harm the character and appearance of the area. As such it would fail to enhance its immediate setting and would not accord, in that regard, with Policy LP24 of the Local Plan and paragraph 127 of the Framework, which collectively seek to ensure that new development the form, scale, layout and details of all development respects and enhances the character of the townscape.

Living Conditions

9. The proposed dwelling would be positioned behind 1 Yew Tree Road, which currently overlooks the appeal site and benefits from an open aspect across existing gardens. The positioning of the proposed dwelling would result in the loss of this outlook, and the scale of the detached dwelling shown on the layout plan would be likely to appear dominant and overbearing when viewed by the occupiers of 1 Yew Tree Road.
10. Due to the close proximity identified above, there would also be likely to be a significant amount of overlooking and loss of privacy caused to the occupiers of 1 Yew Tree Road. The layout plan shows the front elevation positioned to face towards the access, in an attempt to off-set, and angle any overlooking. However, due to the close proximity, this would not prevent the significant overlooking that would be likely to result.
11. 33 Yew Tree Road is positioned at a lower level beneath the appeal site and has a rear garden that would be positioned behind the rear elevation of the proposed dwelling. The submitted plans show that the proposed rear garden would be relatively short in length and would not provide sufficient distance between the habitable room windows on the rear of the proposed dwelling and the private garden space of No 33. Consequently, it appears likely that the proposed development would result in substantial overlooking and loss of privacy to the occupiers of No 33.
12. Whilst the proposed development is in outline, from the evidence provided I am not satisfied that these issues would be satisfactorily addressed at the reserved

matters stage, such that the proposed development would result in harm to the living conditions of neighbouring occupiers.

13. Consequently, the proposed dwelling would be likely to appear overbearing and cause loss of privacy to existing and future occupiers of 1 Yew Tree Road and would overlook the private garden of 33 Yew Tree Road. On this basis the proposed development would not accord, in that regard, with the criteria set out in Policy PLP24 of the Local Plan which seeks to ensure that new provides a high standard of living conditions for future and neighbouring occupiers.

Other Matters

14. I have considered the concerns raised by local residents in relation to the effect of the development highway safety with regards to the condition of the access, visibility, congestion and parking, and have noted that the Council have no concerns as such matters could be controlled through planning conditions. These are matters that do not affect my findings on the main issues.

Conclusions

15. For the reasons identified above the appeal is dismissed.

R Cooper

INSPECTOR