
Appeal Decision

Site visit made on 27 June 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 6 July 2017

Appeal Ref: APP/Z4718/W/17/3171715

The Old Vicarage, Marsh Hall Lane, Thurstonland, Huddersfield HD4 6XD

- 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 Joseph Martin against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/60/93931/E, dated 24 November 2016, was refused by notice dated 16 February 2017.
 - The development proposed is an outline application for erection of two dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with all matters reserved for future consideration, except for access and layout. Indicative plans have been submitted. These have formed part of my consideration of this appeal.

Main Issues

3. The main issues are:
 - whether the proposed development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework);
 - the effect of the proposed development on the openness of the Green Belt and the purposes of including land within it;
 - whether the proposed development would preserve or enhance the character or appearance of the Thurstonland Conservation Area (TCA), including the effect of the proposal on protected trees within and adjacent to the appeal site;
 - the effect of the proposed access and parking arrangements on highway safety; and
 - if the development is inappropriate, 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 development.
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Reasons

4. The appeal site is next to the Old Vicarage on the edge of Thurstonland. While the appellant suggests the actual Green Belt boundary is not precisely defined, I gather the northwest portion of the site falls within the Green Belt on the Unitary Development Plan (UDP) Proposals Map. Saved policies in the UDP form the development plan for Kirklees and as such, *planning law requires that application for planning permission must be determined in accordance with the development plan, unless material considerations indicative otherwise*¹.
5. While the Council has put their Local Plan out for consultation, this is at an early stage in its preparation and I am not aware of the extent of any unresolved objections or its degree of consistency with the Framework. So, even if the site is next to land which could potentially be brought forward for housing development, the Local Plan has yet to be examined, found to be sound or adopted. I also do not know of any unresolved objections to this potential allocation. I therefore attach the Local Plan very little weight.

Inappropriate development

6. The Framework establishes that new buildings in the Green Belt are inappropriate unless they are one of the exceptions listed in paragraph 89. One of the exception is the *limited infilling in villages*. The appellant contends that the appeal scheme would be an infill development between the Old Vicarage and 11 and 15 Marsh Hall Lane. The proposal would however be set considerably back from the dwellings of Nos 11 and 15 which address the lane. Although the proposed dwellings would be next to the Old Vicarage and the rear garden of No 15 shares the site's northern boundary, they would not address the lane or form part of the street scene, even though the vehicular access would provide a link. Thus, the proposal cannot be said to be filling in a gap between existing buildings.
7. It is suggested that the site has been used as a horse training arena while in recent times it is said to have been used as a side garden to the Old Vicarage. The site was covered in gravel which lay on top of a landscape fabric. A low brick wall bounds the site on three sides. A timber arbour and pergola stand on the site. Collectively the site's appearance does not support its former equine use. As such, based on the evidence before me, I do not consider that appeal site is previously developed land².
8. So, while part of the appeal site lies within the village settlement, the appeal scheme, on the whole, is inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 of the Framework states that substantial weight should be given to any harm to the Green Belt. The proposal would be contrary to paragraph 89 of the Framework. These policies seek to prevent inappropriate development which does not maintain the openness of the land.

Openness and purpose

9. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

² National Planning Policy Framework, Annex 2

10. The proposal would result in the introduction of two dwellings. Even so, the site is positioned next to the boundaries of Nos 11 and 15 and immediately adjacent to the Old Vicarage. Hence, I do not consider that the proposal would not result in encroachment into the open countryside which extends to the north-west, west and south-west of the site. While details of the dwellings scale and appearance have been reserved for future consideration and they would be sited near to established trees and shrubs, their volume and footprint would significantly detract from the openness of the land in the Green Belt. This would be in conflict with paragraph 79 of the Framework.
11. The Framework does not seek to make a distinction regarding the level of harm from a reduction in Green Belt openness. It would be a harm to the Green Belt, which is the subject of Framework paragraph 88. In this respect, I conclude that the proposal would be contrary to the fundamental aim of Green Belt policy as described in paragraph 79 of the Framework. For these reasons, this harm also attracts substantial weight against the appeal scheme.

Character or appearance

12. St Thomas Thurstonland and the Old Vicarage bookend either side of a row of development on the western side of Marsh Hall Lane that is set within spacious verdant grounds. The Heritage Photos confirm that the dwellings in this row are large and set back from the lane. On the eastern side of the lane and on Moor Top Avenue are semi-detached dwellings in smaller plots. These are outside of the TCA. This more recent form of development is closer knit and not akin to the western side of the lane. The Conservation Area Survey Reports (CASR) explains that Thurstonland is a *very attractive rural settlement which has been spoilt by modern infill*.
13. So, while there are a variety of styles and house types in the wider area, the layout and density of the appeal scheme would not reflect the pattern of development on the western side of the lane. Thus, notwithstanding the indicative designs and the proposed use of materials, the dwellings would not be in keeping with the development on the western side of the lane, insofar as their density and layout as sought by saved UDP Policy BE2 or assist in retaining a sense of local identity explained in saved UDP Policy BE1.
14. The CASR also remarks that there are important groups of trees around the Church and the Vicarage. These are protected due to the TCA designation. I note the appellant's view that no mature trees would be affected by the appeal scheme. Nevertheless, I am not persuaded by this statement, given the line of mature trees which are either immediately next to the stone wall that extends along the proposed access or a short distance back from it. The canopies of a number of trees extend over the proposed access and they appear to be in good condition.
15. As the proposal includes changes to widen the vehicular access and modify the established stone wall, I consider that the scheme would result in the direct loss of a number of mature trees or potentially harm a greater number. I am also not convinced that the use of specialist paving would necessarily prevent damage to the tree roots, as I do not have such details before me. There is also no evidence to suggest that the access is already hard surfaced.
16. While landscaping proposals could be brought forward at reserved matters stage, the existing mature trees make a significant contribution to the character and appearance of the site and the TCA. As such they should be retained. While some are set back from the lane, collectively they play a significant role in

the TCA, especially on the western side of Marsh Hall Lane. Thus, the removal of a number of these trees would be visible from the lane and result in harm to the character and appearance of the TCA. This would alter the secluded back drop and privacy that they afford to the Old Vicarage and the site. The use of planning conditions to secure the preservation of the trees would not, in this instance, be appropriate given the conflict between the proposal and the trees.

17. Thus, I consider the proposed development would lead to a significant harm to the character and appearance of the TCA which would be magnified by the loss of a number of protected trees. The result of this would be a development that would be out of kilter with the form of development in the village. It would fail to preserve or enhance the character or appearance of the TCA. Yet, with regard to paragraph 134 of the Framework the harm to the TCA would be less than substantial. Even so this still amounts to a harmful impact which adversely affects the significance of the TCA as a heritage asset. Public benefit would arise from two new dwellings in an area with no five-year supply of deliverable housing sites and in an established village community. But, the harm to the TCA and the site would, to which I attach considerable importance and weight, in my view, clearly outweigh these modest public benefits.
18. I conclude, on this issue, that the proposed development would harm the character and appearance of the TCA, including through the loss of a number of protected trees within and adjacent to the appeal site which would not preserve or enhance the character or appearance of the TCA. The proposal would not accord with saved UDP Policies BE1, BE2, BE5 and NE9, the CASR and paragraph 134 of the Framework. Jointly they, among other things, seek to secure development that is in keeping in terms of its density and layout so as to assist in retaining a sense of local identity by retaining mature trees so that it preserves or enhances the character and appearance of the conservation area.

Highway safety

19. Access to the proposed dwellings would re-use an existing access that has become overgrown. The access joins Marsh Hall Lane on a slight bend, which is quite wide. Opposite is Moor Top Avenue. The CASR explains that traffic is quite low through the village. This confirms my observations on site.
20. Notably, the plans show a visibility splay of at least 75 metres would be formed in either direction with a 2 metre set back. This splay far exceeds the standard sought by the Council. In this regard, the proposal would not therefore adversely affect highway safety.
21. Each dwelling would have a garage and off-street parking provision in front. This potentially would amount to a provision of three parking spaces. Yet, the garages shown would be shy of the recommended length of 6 metres which would be ideal over the lifetime of the development, given the size of vehicles. This would mean that not every vehicle could use the proposed garages, which is likely to result in vehicles parking on the private access, which would inhibit the ability for vehicles and emergency service vehicles to turn, meaning that they couldn't access the site in forward gear. Even though the access would be widened and the majority of manoeuvres would take place off the highway, saved UDP Policy T10 does explain that development is expected to incorporate appropriate highway infrastructure designed to meet relevant safety standards.
22. Accordingly, I conclude, on this issue that the proposed parking arrangements would fail to ensure highway safety. This would be contrary to saved UDP Policies T10 and T19; which seek to ensure development incorporate

appropriate highway infrastructure designed to meet relevant safety standards and provide off-street parking provision.

Other considerations

23. The Council recognise that they are currently unable to demonstrate a five year supply of deliverable housing sites³. This means that UDP policies relating to the supply of housing should not be considered up-to-date. Bullet point 4 of paragraph 14 sets out *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted.*
24. However, footnote 9 of the second indent of bullet point 4 in paragraph 14, identifies that Green Belt can be such a policy. Thus, even if the UDP is out-of-date, it would not alter my approach in the event of a conclusion that Green Belt policies indicate that the development should be restricted. In any case, the proposal's contribution to the shortfall of housing in the area would be very modest. Thus, I only give this factor limited weight in favour of the appeal.
25. I also note that the proposed dwellings would not result in harm to the living conditions of neighbouring or future occupants and there are no ecological concerns associated with the proposal. However these attract very limited weight in favour of the proposal.

Other matter

26. I understand the appellant's frustration that the Council could have sought clarification or requested the necessary information rather than just refusing the application, nevertheless it is open to the appellant to produce the necessary information with a view to finding a solution.

Conclusion

27. The appeal scheme would be inappropriate development in the Green Belt and result in a loss of openness. By definition these are harmful and I attach them substantial weight as required by paragraph 88 of the Framework. As such there is a clear conflict with the environmental role of sustainable development. I have also concluded that the proposal would significantly harm the character and appearance of the TCA and that the parking arrangement would fail to meet relevant safety standards. I afford both matters significant weight. They conflict with the social and environmental roles of sustainable development.
28. I have considered matters put before me in favour of the scheme by the appellant, however I conclude that these other considerations taken together do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist and the proposal does not represent sustainable development.
29. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR

³ Paragraph 47, the National Planning Policy Framework

Appeal Decision

Site visit made on 3 July 2017

by **Daniel Hartley BA Hons MTP MBA MRTPI**

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

Decision date: 07 July 2017

Appeal Ref: APP/Z4718/D/17/3173404 43 Gladwin Street, Batley WF17 7RW

- 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 Yoosoof against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/92785/E, dated 15 August 2016, was refused by notice dated 24 January 2017.
 - The development proposed is a single and two storey extension to front, side and rear.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal upon (i) the character and appearance of the area and (ii) the living conditions of neighbouring residential properties in respect of light and outlook.

Reasons

Site and proposal

3. The appeal site comprises a brick built semi-detached house falling within a predominantly residential area. It is the last property in Gladwin Street and is opposite a terrace of stone built houses on Knowles Road. To its side there is Back Snowdon Street which includes a row of terraced buildings. Whilst there is a mixture of house styles and materials in the locality, in the main the properties have simple front facades and unbroken roof lines. Furthermore, there is a very noticeable sense of space between and around properties and this adds distinctive character to the area.
4. It is proposed to erect a two storey side extension to form a secondary staircase into a new en-suite loft bedroom. In addition, a single storey wrap around front/side extension is proposed to create a lobby, living room and WC/shower. There would also be a single storey rear extension to form a kitchen/dining room, four velux roof lights to the front roof slope and a dormer to the rear roof slope.

Character and appearance

5. I acknowledge that No 39 Gladwin Street includes a front and side extension. However, and notwithstanding the other planning permissions referred to by
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the appellant, the majority of the dwellings in the area have simple and relatively unaltered front facades.

6. In this case, the front extension would be connected to a side extension which would be almost as wide as the original house. The rear corner of the side extension would be in very close proximity to Back Snowdon Street. When the front and side extensions are considered as a whole they would appear out of proportion and scale with the house. Such an adverse and discordant impact would be compounded by the fact that it is proposed to erect a large rear roof dormer and a two storey side extension.
7. Taking into account the scale, bulk and position of the whole of the proposed development, I consider that it would have a significantly dominating impact when viewed from the surrounding streets (and the adjacent footpath), would detract from the sense of space between and around properties and would not sufficiently maintain the overall balance and symmetry of the pair of semi-detached houses. When considered as a whole, the development would appear as a series of very differently designed and interconnected extensions. Overall, there would be a distinct lack of design cohesion.
8. The above identified concerns would be compounded by the fact that four roof lights are proposed to the front roof slope. Most of the surrounding properties, including No 41 Gladwin Street, have unbroken roof slopes. In addition, the various extensions include the use of both hipped and gabled roofs at varying heights and the proposed two storey side extension would appear narrow and out of place on the side of the house. In particular, the use of a narrow window within the front elevation of the two storey side extension would not reflect the scale, design and proportions of other windows in the property and would have the effect of creating a dominant mass of front wall which would appear stark and incongruous when viewed from the street.
9. The proposed rear roof dormer would take up a very significant proportion of the rear roof slope of the appeal property. Given its overall bulk and width, I consider that it would appear as a top heavy addition to the roof slope and that it would appear incongruous and dominant when viewed from parts of Back Snowden Street.
10. For the collective reasons outlined above, I conclude that the proposed development would not accord with the design aims of saved Policies D2, BE1, BE2 and BE14 of the Kirklees Unitary Development Plan 1999 (UDP) and Chapter 7 of the National Planning Policy Framework (the Framework).

Living Conditions

11. The proposed single storey rear extension would have some impact upon the occupiers of No 41 Gladwin Street, but owing to its height and rear projection, the impact would not be significantly adverse in terms of loss of light, privacy or outlook.
12. Notwithstanding the above, the ground floor and first floor side extensions would be positioned in very close proximity to the windows belonging to No 50 Snowdon Street. When considered as a whole, the scale, bulk and proximity of the single and first floor side extensions would be such that it would have an unacceptably enclosing impact when viewed from the rear windows of No 50 Snowdon Street. I do not share the Council's view that this part of the

proposal would result in a material loss of light to the aforementioned properties taking into account the separation distances and as the first floor element of the side extension would be set some distance back from the appeal site boundary. However, this does not alter my view relating to the loss of outlook.

13. For the reasons outlined above, I conclude that the proposal would have a significantly overbearing impact upon the occupiers of No 50 Snowdon Street leading to a material loss of outlook. For this reason, the proposal would not accord with the amenity aims of saved Policies D2 and BE1 of the UDP and paragraph 17 of the Framework which states that planning should "*always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings*".

Other Matters

14. The appellant has referred me to extensions that have been approved to other dwellings in Gladwin Street. I have not been provided with specific details relating to these planning permissions and so I do not know the exact circumstances which led to them being allowed. In any event, as part of my site visit I was able to view the proposal in the context of the street-scene as it exists now. I could not see any developments that were directly comparable to the appeal proposal or that had the same relationship with other existing properties. I have considered the appeal on its individual planning merits and concluded that the proposal would be unacceptable in planning terms.
15. None of the other matters raised outweigh or alter my conclusions on the main issues.

Conclusion

16. For the reasons outlined above, and taking into account all other matters raised, I conclude that the proposal would not accord with the development plan for the area. Therefore, the appeal is dismissed.

Daniel Hartley

INSPECTOR

Appeal Decision

Site visit made on 5 June 2017

by Gwyn Clark BSc DipTP MRTPI

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

Decision date: 12 July 2017

Appeal Ref: APP/Z4718/W/17/3166387
Wesley Terrace, Denby Dale HD8 8RS

- 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 Adrian Barraclough against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/92527/E, dated 29 March 2016, was refused by notice dated 11 October 2016.
 - The development proposed is to erect a three bedroom detached dwelling on a vacant village infill site.
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Decision

1. I dismiss the appeal.

Main Issues

2. The main issues in this appeal are the effect upon:
 - the character and appearance of the area and the setting of nearby listed buildings
 - the living conditions of neighbouring properties with specific reference to 1A, 16 and 17 Wesley Terrace
 - highway safety with specific regard to car parking.

Reasons

Character and appearance

3. The appeal site, which is a disused area of land near the end of a cul-de-sac, is undoubtedly heavily constrained. It is narrow, there is a steep embankment to the rear, it is irregularly shaped, follows the slope downhill along Wesley Terrace and it lies in close proximity to neighbouring dwellings. The design response is to construct an 'L' shaped split-level house in a traditional style constructed in materials sympathetic to the area. The design would take some reference from the older terraced houses of Wesley Terrace and also reflect the style adopted by the newer dwellings found opposite.
4. However the dominant leg of the 'L' shape would run at right angles to Wesley Lane and the gable wall would be blank in order to avoid potential privacy issues with the dwellings opposite. The shape of the house, the manner in which it addresses the road and its position on rising ground mean that it

- would appear overly dominant and overpowering within the existing street scene.
5. The garden/amenity space around the proposed house would be very limited. This is due to the size of the plot in relation to the footprint of the dwelling. A relatively large area at the front is also given over to provide car parking for this dwelling and its neighbour. While there are several examples of dwellings on awkwardly shaped small plots, some with very limited space around them, each site and its surroundings are different. I have considered this proposal on its own merit. Within the context of Wesley Terrace where gardens tend to be larger and more regular in shape this aspect of the appearance of the proposed development would not reflect the local character.
 6. In respect of the effect of the development upon the Methodist Church and Manse these are both imposing listed buildings of significance standing on Cumberworth Lane not far from and high above the appeal site. The National Planning Policy Framework makes clear that when considering the impact of a proposed development on the significance of a heritage asset great weight should be given to the asset's conservation. Significance can be harmed or lost through, amongst other things, development within the setting of a listed building.
 7. The principle views of both the Methodist Church and Manse are taken from Cumberworth Lane and when viewed from here I consider there to be sufficient separation distance, a significant change in ground level and the intervening access and car park to the front and side of the Manse for the setting of these listed buildings not to be harmed. However the proposal would be seen in front of the listed buildings when approaching from Wesley Terrace. As this is not a principal view of the heritage assets, and a reasonable degree of separation would be maintained, harm would be caused but I consider that this would be limited.
 8. Nevertheless I consider that the proposed development would appear overly dominant and imposing within the street. The combination of the forward projecting large blank gable, the frontage parking and the limited space around the building would lead to the house appearing out of character. I further consider that there would be some harm caused to the setting of the Methodist Church and Manse. Consequently it would prove contrary to policies D2, BE1 and BE2 of the 2007 Kirklees Unitary Development Plan (KUDP), and contrary to the policies of the NPPF which collectively seek to achieve a high standard of design in new development and one that is characteristic of the local area and which preserves the setting of listed buildings.

Living conditions of neighbours

9. Although I note there is some disagreement over the precise distance between the blank gable wall and the houses opposite I have judged that the minimum distance specified within Policy BE12 of the KUDP between the blank gable of the proposed house and the front of the houses opposite is achieved. However due to its height, width and elevated position I nevertheless consider that it would appear a rather uncompromising and imposing feature to these neighbours and that it would prove quite overbearing.
10. The proposed dwelling would also have an unsatisfactory relationship with the newly built dwelling, No 1A Wesley Terrace. The secondary gable of the new

house would lie very close to and overlap the rear of No 1A. Although set at an oblique angle the proximity of the gable wall would prove harmful to the living conditions of the occupiers through an overbearing and overshadowing effect upon the rear of this house and its garden.

11. As a consequence I consider that the proposed dwelling would prove contrary to the provisions of policy D2 of the KUDP which seeks to protect residential amenity as it would be harmful to the living conditions of neighbours due to an overbearing and overshadowing effect.

Highway safety

12. The submitted plans indicate four parking spaces within the site to serve the two dwellings, No 1A and the current proposal. While the suitability of these spaces to accommodate a vehicle clear of the highway is disputed I also take into account that Wesley Terrace is a truncated road and only provides access for residents and to the small car park adjacent to the Manse. Consequently traffic is light and traffic speed is low. I also observe that Wesley Terrace is conveniently located in relation to a range of services and facilities and so future occupiers of the proposed dwelling would have easy access to these and to alternative modes of transport.
13. I am satisfied that at least three spaces can be accommodated within the appeal site to serve both dwellings and consider that any deficiency in car parking provision against the provisions of Policy T10 and T19 of the KUDP would in this case not be likely to materially harm highway safety.

Other matters

14. From the evidence before me I conclude that there is an absence of a five year land supply within the District. By virtue of paragraph 49 of the NPPF this means that relevant policies for the supply of housing cannot be considered up to date. Even though only for a single dwelling the development would contribute towards meeting an important need for houses in the area. The house would be located close to a range of services and facilities including easy access to public transport. Furthermore, although there is no mechanism proposed to ensure it remains an 'affordable' dwelling as defined by the NPPF it nonetheless would be a smaller dwelling which is in greater need. I also consider that an energy efficient dwelling as proposed would be in line with policy BE1 of the KUDP.
15. I have in accordance with paragraph 14 of the NPPF approached this appeal on the basis that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits identified. The NPPF identifies three dimensions to sustainable development. Some economic benefit would arise from the construction of the new dwelling and social benefit would arise through providing a new home fulfilling an important need and close to services and facilities. I attribute significant weight to these matters. However there is also an environmental dimension to sustainable development. While the development would be energy efficient and make beneficial use of an untidy and unused site I have concluded that it would have a significant and harmful effect upon the character and appearance of the area and upon the living conditions of neighbours. I also find that some harm would arise as a consequence of the development upon the character and

setting of the nearby listed buildings. I consider that these harmful effects would significantly and demonstrably outweigh the benefits.

Conclusion

16. By virtue of the conflict that I have identified with policies D2, BE1 and BE2 of the KUDP the proposal would not be in accordance with the development plan. In my consideration the identified benefits of the development do not outweigh the harmful effects. As the material considerations do not indicate otherwise planning permission should be refused and accordingly the appeal is dismissed.

Gwyn Clark

INSPECTOR

Appeal Decision

Site visit made on 5 June 2017

by Gwyn Clark BSc DipTP MRTPI

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

Decision date: 13 July 2017

Appeal Ref: APP/Z4718/W/17/3171874

Land to rear of 114 West Royd Avenue, Mirfield WF14 9LE

- 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 M Brooke against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/90012/E, dated 23 December 2016, was refused by notice dated 28 February 2017.
 - The development proposed is formation of single storey detached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the formation of a single storey detached dwelling on land to the rear of 114 West Royd Avenue, Mirfield WF14 9LE in accordance with the terms of application Ref 2017/62/90012/E, dated 23 December 2016, subject to the attached schedule of conditions.

Main Issues

2. The main issues are:
 - The effect of the proposal upon the character and appearance of the area with regard to the scale, design and layout of the proposed dwelling
 - The effect of the development upon the living conditions of neighbours with regard to outlook, an overbearing effect and overshadowing.

Reasons

Effect upon the character and appearance of the area

3. The houses and bungalows found on this part of Lee Green and West Royd Avenue all back onto one another with the appeal site located at the centre. A short row of traditional terraced houses lead toward the appeal site from Pratt Lane and next to the terrace at some point an additional modern dwelling, 9A Pratt Lane, has been added as an infill. This creates a rather disjointed setting.
4. The wide variety of style of dwellings found in the area surrounding the appeal site has already been commented upon by both parties and by previous appeal Inspectors¹. This mixed character comprises the traditional terraced row and more modern detached two storey houses and bungalows, including the new

¹ Appeal Ref APP/Z4718/W/15/3133151 and APP/Z4718/W/16/3148709

- house granted planning permission to replace the existing bungalow 114 West Royd Road.
5. Pratt Lane is a traditional terraced row constructed in stone. The other properties are constructed in a mix of stone, brick and render. They mainly feature dual pitched roofs however roof forms also display a variety of style with differences found in the angle of pitch, in shape and materials used. Adding to this mix No 9a Pratt Lane, 'Freshfields' and No 116 West Royd Avenue all have flat roofed attached garages. There is also a variation in garden shape and sizes.
 6. The dwelling proposed would sit centrally within the appeal site and would be afforded a reasonable area of useable amenity space, both to the front and rear. It would have a garden of broadly similar size to that of its neighbours and would be proportionate to the size of dwelling proposed. I therefore consider that in terms of scale, density, and layout the dwelling would not appear out of character or constitute an over-development of the site and so would meet the aims of Policy D2 and BE2 of the 2007 Kirklees Unitary Development Plan (KUDP) in this regard.
 7. In terms of its appearance the proposed dwelling has been designed in a quite distinctive manner unlike any of the surrounding and more traditionally constructed dwellings. At its most basic level it has been described as 'a fully rendered box like structure with a mono pitched roof which is akin in appearance to an outbuilding'. It is necessary to consider whether the structure constitutes a good quality design, creates or retains a sense of local identity and is visually attractive, as required by Policy BE1, and also whether it is in keeping with surrounding development in respect of design, materials, building mass and height, as required by Policy BE2 of the KUDP.
 8. It is without doubt a simple structure. A distinctive feature of its design is the absence of a conventional roof. However flat roofed structures are a part of the character of this local area. The dwelling would be mainly rendered. Several of the neighbouring dwellings feature a rendered finish used in combination with brick or stone. The design itself is not displeasing. In particular the extended height vertical windows on the front elevation present an attractive feature in combination with the simplicity of the overall design. Consequently within this context I find it would meet the requirements of Policy BE1 and BE2 of the KUDP.
 9. The dwelling has been designed with an aim towards meeting the 'Passive House' standard and whether or not this is achieved it would have very low energy demands. This would meet aspects of Policy D2 and BE1 of the KUDP in terms of energy efficiency.

Effect upon the living conditions of neighbours

10. The site is uneven but generally slopes upwards towards Pratt Lane. In order to facilitate the development the ground would be levelled and in the process the ground level reduced. In addition the entire site except where bounded by existing high stone walls would be fenced using close boarded timber fencing. The new dwelling would stand closest to No 9 Pratt Lane but separated by an existing wall and set at an oblique angle. I consider that due to the low height of the proposed dwelling, its orientation and the distance between, that the occupiers of No 9 would not to be adversely affected to any significant extent.

11. There is general compliance with minimum separation distances contained within policy BE12. Therefore I do not consider the dwelling would have an adverse impact upon neighbours as a result of an overbearing effect, loss of outlook or overshadowing. I particularly note that the minimum separation distances given in Policy BE12 would apply to development of more than one storey and I conclude that the proposal complies with Policies D2 and B12 of the KUDP.

Other matters

12. At the request of the appellant I visited other sites in the local area where 'back land' development has taken place but found these to be of little relevance except to show that a different approach can be taken to meet a particular circumstance. What is appropriate in one situation may not be in another.

Conditions

13. I have attached conditions that generally follow those suggested by the local planning authority and I have added a specific condition in respect of finished floor levels (condition 11), reflecting the reduction in ground level shown in the application.

14. Conditions 1 and 2 are needed in the interest of clarity; Conditions 3, 4, 10 and 11 in order to safeguard the character of the area and residential amenity; Conditions 5, 6 and 7 in the interest of highway safety; Condition 8 in order to ensure that site can be satisfactorily drained; and Conditions 9 in order to promote low emission modes of transport.

Conclusion

15. Having regard to the unique characteristics of this site I consider that the development does meet the terms of Policies D2, BE1, BE2 and BE12 of the KUDP and I allow the appeal and grant planning permission. I do so attaching conditions found in the Annexe to this decision.

Gwyn Clark

INSPECTOR

Annexe to Appeal Reference APP/Z4718/W/17/3171874

Conditions Schedule

1. The development shall be begun not later than the expiration of three years beginning with the date on which permission is granted.
2. The development hereby permitted shall be carried out in complete accordance with the plans reference 16-011-149, 16-011-150, 16-011-151, 16-011-152, and 16-011-155 except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
3. Samples of all facing and roofing materials shall be inspected by and approved in writing by the local planning authority before works to construct the superstructure of the dwelling commence. Thereafter the dwelling shall be constructed of the approved materials and be retained.
4. Notwithstanding the details and specifications on Plan Ref 16-011-150 and prior to the first occupation of the dwelling a scheme detailing the boundary treatment of the entire site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the dwelling shall not be first occupied until the works as approved have been completed and thereafter shall be retained.
5. All areas to be used for parking and turning shall be laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or any successor guidance before the dwellings are first occupied. Thereafter these areas shall be retained free of any obstruction.
6. Nothing shall be permitted to be planted or erected within a strip of land 2.4m deep measured from the carriageway edge of West Royd Avenue along the full frontage of the site which exceeds 0.9m in height above the level of the adjoining highway.
7. Notwithstanding the submitted plans, a plan detailing the internal turning facilities using swept paths shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure of the dwelling commence. Thereafter the internal turning facilities shall be provided in accordance with the approved details and thereafter retained.
8. A scheme demonstrating an adequately designed soakaway for an effective means of drainage of surface water shall be submitted to and approved in writing by the Local Planning Authority before works to construct the foundations of the dwelling commence. The scheme shall include percolation tests in accordance with BRE Digest 365 along with calculations demonstrating that the designed soakaways can store a critical 1 in 30 year storm event and can empty by 50% within 24 hours. The dwelling shall not be first occupied until the works comprising the approved scheme have been completed and shall be retained thereafter.

9. Prior to first occupation of the dwelling an electric vehicle recharging point shall be installed. Cable and circuitry ratings shall be provided to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. Thereafter the electric vehicle recharging point so provided shall be retained.

10. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) no development included within Classes A, B, C or E of Part 1 of Schedule 2 to that Order shall be carried out.

11. Prior to the commencement of development a plan showing the finished floor level of the dwelling, consistent with cross sections on Drawing Reference Number 16-011-152, shall be submitted to and approved in writing. The dwelling shall be constructed to the finished floor level as approved.

END