



## Appeal Decision

Site visit made on 18 September 2017

by **Elizabeth Pleasant DipTP MRTPI**

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

Decision date: 18 October 2017

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### Appeal Ref: **APP/Z4718/D/17/3181620**

### **12 Mereside, Fenay Bridge, Huddersfield HD5 8SX**

- 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 Scott against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2017/62/90776/W, dated 6 March 2017, was refused by a notice dated 22 May 2017.
  - The development proposed is a two storey side extension and associated works.
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### Decision

1. The appeal is allowed and planning permission is granted for a two storey side extension and associated works at 12 Mereside, Fenay Bridge, Huddersfield HD5 8SX in accordance with the terms of the application, Ref 2017/62/90776/W, dated 6 March 2017, 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: Block Plan; Option 2 Plans & Elevations 16-075 01 Rev G.
  - 3) The materials to be used in the external surfaces of the extension hereby permitted shall match those used on the existing building.

### Main Issue

2. The main issue in this case is the effect on the living conditions of No 22 Mereside, with particular regard to outlook and sunlight.

### Reasons

3. No 22 Mereside is a mid-terraced three-storey dwelling which is situated immediately to the north of the appeal premises. The outlook from the rear elevation of this property is directly towards the existing rear elevation of 12 Mereside which is situated some 10 metres away from the windows in No 22's ground floor extension. The first floor facing living room window and French style doors are slightly further away.
4. The proposed side extension would be constructed flush with the appeal property's rear elevation. Consequently, it would be no closer to No 22 than the existing property. It is clear that the extension would be visible from both the garden area and rear elevation windows of No 22 and it would

restrict existing views across the side garden area of No 12 from those upstairs windows. However, in view of its distance from those windows, the proposed extension would not be overbearing, or have a significantly enclosing effect.

5. The outlook from the windows in the rear elevation of No 24 is currently towards and over the side garden area of the appeal property. The proposed extension would alter that outlook as the blank wall of the proposal would be situated alongside the site's common boundary and would be clearly visible from No 24. However, No 24 has a large rear and side garden area and the proposed extension would only extend partially along the common boundary. It would not therefore have a substantial enclosing effect. Furthermore, it would be no closer to No 24 than the existing property is to No 22 and would be a sufficient distance away to ensure it would not be overbearing.
6. I recognise that the garden area of No 22 currently experiences some shading, particularly in spring and late summer. It is also clear, from the evidence provided by the appellant in their grounds of appeal, that the proposal would result in some further shading of this garden during the early morning hours. However, the effects would not be significant, and nor would they occur during the afternoon or at the height of summer. Furthermore, the shading would be to the garden area only and there would be no loss of direct sunlight to the house.
7. I therefore conclude that the proposed development would not have a significantly harmful effect on the living conditions of the existing occupiers of No 22 Mereside, with particular regard to outlook and sunlight. It would not conflict with the development plan and in particular with Policies BE14 and D2(v) of Kirklees Unitary Development Plan, 2007 which seeks to ensure, amongst other things, that new development, including extensions to dwellings, do not prejudice residential amenity.

### **Other Matters**

8. I have taken into consideration concerns relating to the proximity of mature trees. However, the Council are satisfied that the proposal would not have a harmful impact on their health. From what I saw on the site and in the absence of any substantive evidence to indicate otherwise, I concur with the Council's view.
9. I have not been made aware of any adopted policy that would prevent an occupier from extending their house just because of its original size. I therefore give this consideration limited weight.
10. I have considered the concerns raised by third parties regarding potential risks to health and disturbance during the construction phase, and in the circumstances put to me I understand those concerns. However, personal circumstances rarely outweigh planning considerations, and in this case the proposal is not for a major development where the construction period is likely to be lengthy. The weight that I can afford this consideration is therefore limited.

**Conclusion**

11. For the reasons given above and taking into account all other matters raised, I conclude that subject to conditions required to provide certainty and safeguard the character and appearance of the area, the appeal should be allowed.

*Elizabeth Pleasant*

INSPECTOR



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## Appeal Decisions

Site visit made on 3 October 2017

**by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE**

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

**Decision date: 19 October 2017**

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### **Appeal A Ref: APP/Z4718/W/17/3174127**

#### **98 Lockwood Road, Huddersfield HD1 3RF**

- 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 Ali Anwar (Fashion Empire) against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/62/93669/W, dated 16 November 2016, was refused by notice dated 16 March 2017.
  - The development proposed is described as demolition of house and erection of takeaway restaurant.
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### **Appeal Ref: APP/Z4718/H/17/3174090**

#### **98 Lockwood Road, Huddersfield HD1 3RF**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr Ali Anwar (Fashion Empire) against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/64/93670/W, dated 16 November 2016, was refused by notice dated 9 March 2017.
  - The advertisement proposed is described as roadside sign as 2442-04 and fascia sign as 2442-03.
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## **Decisions**

### **Appeal A: Ref. APP/Z4718/W/17/3174127**

1. The appeal is dismissed.

### **Appeal B: Ref. APP/Z4718/H/17/3174090**

2. The appeal is dismissed.

### **Application for costs**

3. An application for costs was made by Mr Ali Anwar (Fashion Empire) against Kirklees Metropolitan Borough Council in respect of both appeals. These applications are the subject of a separate Decision.

### **Procedural Matters**

4. These appeals by the same appellant relate to the same site with appeal Ref APP/Z4718/W/17/3174127 being for the demolition of an existing dwelling and the erection of a two storey takeaway/restaurant and appeal

Ref APP/Z4718/H/17/3174090 being for the associated illuminated signage. Consequently, I have dealt with them both in this one decision letter.

5. The Council changed the description of the development in planning application Ref 2016/62/93669/W to 'demolition of existing dwelling and erection of two storey take-away/restaurant.' The description of planning application Ref 2016/64/93670/W was also changed to 'erection of illuminated signs.' I consider that these descriptions more accurately reflect the development proposed.

### **Main Issues**

6. The main issues in respect of both appeals is the effect of the proposals on the character and appearance of the surrounding area; and in the case of Appeal A, the effect of the proposal on the living conditions of the occupants of nearby residential properties with particular regard to noise and disturbance.

### **Reasons**

#### *Character and appearance*

7. The appeal site comprises a two-storey end terrace dwelling and associated curtilage at No 98 Lockwood Road. It is located in a block of four similar designed stone built, gable roof properties having small front gardens and set slightly back from Lockwood Road. To the north is a small block of stone built properties that have been amalgamated into a commercial unit on the ground floor. The 'Palm Court' residential home is located to the west.
8. The western side of Lockwood Road in the vicinity of the appeal is characterised by predominantly stone built dwellings, some of which have had the ground floors converted to a variety of commercial units. The opposite side of the road has a considerably varied character comprising predominantly of commercial units of varying scale and construction materials.
9. The proposal would involve the demolition of No 98, the construction of a new gable to No 100 and the erection of a two storey, flat roof unit having a glazed frontage and cladding on the other elevations. It would occupy the existing rear and side garden/yard areas of No 98 and as such would be set back from the frontages of the blocks of properties on either side which would facilitate three customer car parking spaces accessed off Lockwood Road. At the eastern side of the building would be two car parking spaces for staff and a bin storage area that would be accessed via an existing access off Garden Street that also provides access to the rear of Palm Court.
10. The ground floor of the unit would be used as a hot food takeaway with a small restaurant area with the upper floor being used for storage. The unit would be open for the sale of food between the hours of 1200 to 2300 Monday to Friday and 1200 to midnight on Saturday, Sunday and Bank Holidays.
11. An illuminated fascia sign is proposed to be provided running the full width of the unit and would be approximately 1m high. An illuminated roadside sign is also proposed that would be positioned on a pole approximately 1.8m above ground level with the sign being approximately 3.5m high and 1.5m wide. The roadside sign would be sited adjacent to the pedestrian footway on Lockwood Road and close to the end gable of No 96.

12. Owing to the proposed modern design with a flat roof, a low height and expansive use of frontage glazing and cladding materials, the scale, mass and design of the proposed unit would appear markedly and unacceptably at odds with the prevailing appearance of the traditional designed stone built terraced properties with gable roofs on this side of the street. As such, it would detract from the prevailing character of this side of the street.
13. In addition, the juxtaposition of the proposed unit in being set back from frontage of adjacent properties and with car parking to the front would erode the existing prevalent character of blocks of terraced properties positioned relatively uniformly in close proximity to the road. As such, the proposed position of the unit would unacceptably contrast with the existing appearance of the street scene and the established relationship of the position of buildings to the road.
14. Taking these factors into account, the proposed building would fail to harmonise with the existing architectural vernacular and the appearance of the street scene. Consequently, the proposal would harm the character and appearance of the surrounding area, contrary to Saved Policies BE1(i, ii), BE2(i), BE11(i) and S14(iv) of the Kirklees Unitary Development Plan (1999) (UDP). These policies, amongst other things, require new development to be in keeping with surrounding development, not prejudice the visual amenity of the area and respect the design, materials, scale, building height and layout of existing buildings. In addition, new buildings should be constructed in natural stone in an area where stone is the predominant material of construction and hot food takeaways should not prejudice the visual amenity of the area.
15. The proposed fascia sign by virtue of its size, design and illumination would contrast markedly with the residential character of properties to the south. Owing to its position between two end gables and set back from adjacent blocks of properties it would be a stark contrast, isolated and prominent and as such drawing the eye. Although, the block to the north has commercial signs these appear as being more understated and subtle.
16. There are roadside signs on the opposite side of Lockwood Road. However, there are none on the western side of the road in the vicinity of the appeal site. As such, given the position, height and size of the proposed roadside sign it would appear as an alien feature on this side of the street and would be an unduly prominent and strident feature in the street scene. Even taking into account its proximity to the commercial unit and signage at No 96, the isolated roadside sign would appear as a stark commercial feature that would be at odds with the appearance of the predominantly residential character of this side of the street.
17. Appearing as incongruous additions to the street scene, the proposed signs would result in unacceptable harm to the character and appearance of the surrounding area. As such, the proposed signs would be contrary to Saved Policies D2 and BE1 of the UDP. These policies, amongst other things, require that proposals should not prejudice the character and visual amenity of the surrounding area and should retain a sense of local identity.

#### *Living conditions*

18. The proposed position of the unit and car parking area would result in customers arriving by foot and by cars passing in close proximity to both the

front and rear façade of No 100 Lockwood Road. Although this property, and others in the terraced block, are positioned on a relatively busy main road and as such experience a certain amount of noise generated by the sound of traffic, the existing rear of the properties form a relatively quiet back street, with the majority of noise generated by the comings and goings of the residents who live there.

19. The proposed opening hours of the takeaway/restaurant would mean that the business would continue to operate late into the evening. Customers arriving at the premises would be likely to generate a range of different noises including talking outside on the street, the opening and closing of car doors, the starting up and revving of car engines and the sound of music from car stereos. This would be at a time when the ambient background noise will be likely to be less and the majority of residents will be in their homes and should reasonably expect some respite from the noise associated with the road.
20. It is therefore in the evenings, when residents are entitled to expect a quieter environment that external noise or disturbance particularly when experienced at close quarters at both the front and rear of properties as a result of customers visiting the appeal premises will be more harmful to the living conditions of residents. In particular, given the close proximity of front and rear of No 100 to the front and side of the proposed unit, there is great potential for noise and general disturbance to arise from customers' frequent comings and goings either on foot or by car, which would be exacerbated by groups of customers.
21. Furthermore, the rear facades and gardens of other properties in the terraced block and residential units in the rear of Palm Court would be exposed to noise emitting from the use of the proposed bin storage area and associated staff comings and goings which could extend well beyond the proposed closing times.
22. Taking the above factors into account, the proposal would cause unacceptable harm to the living conditions of the occupants of nearby residential properties as a consequence of noise and disturbance. Consequently, the proposal would be contrary to Saved Policies BE1(iv), D2(v) and s14(iii) of the UDP. These policies, amongst other things, require that development should not prejudice residential amenity, not cause excessive exposure to noise and that proposals for hot food takeaways should have regard to the effect on residential amenity.

#### *Other matters*

23. The appellant has drawn my attention to other business in the vicinity of the appeal site which are alleged to have no restrictions on opening times. Whilst this may be the case, many of the examples provided are predominantly commercial and professional services that traditionally do not open during in the late evenings. None of the examples provided relate to hot food takeaways. As such, I have attached little weight to the fact that there are other business premises in the vicinity of the appeal site.
24. I have also taken into account the fact that there are other takeaways on Lockwood Road that remain open late in the evening. I also accept that there are other buildings along Lockwood Road that have fascia signs and roadside signs. However, many relate to commercial and professional services that are located on the opposite side of the street from the appeal site and where there

is a cluster of such commercial uses as oppose to the predominant residential character on this side of the street. Moreover, I do not have any evidence of the planning circumstances that led these to be considered acceptable by the Council and therefore I cannot be certain that they are representative of the planning circumstances in these cases. In any event, I have determined these appeals on their own individual merits.

### **Conclusions**

25. I have taken into account the fact that the proposal would make a modest contribution to the local economy in terms of employment during construction of the unit and during its subsequent use. However, these benefits do not outweigh the harm that would be caused to the character and appearance of the area and to the living conditions of the occupants of nearby properties. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeals should be dismissed.

*Stephen Normington*

INSPECTOR



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# Appeal Decision

Site visit made on 17 October 2017

**by J D Westbrook BSc(hons) MSc MRTPI**

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

**Decision date: 23 October 2017**

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**Appeal Ref: APP/Z4718/D/17/3179247**

**Rose Hill Cottage, Meltham Road, Marsden, Huddersfield, Yorkshire, HD7 6EH**

- 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 Kendrick Whitehead against the decision of Kirklees Metropolitan Council.
  - The application Ref 2017/62/90417/W, dated 5 February 2017, was refused by notice dated 19 May 2017.
  - The development proposed is described as the erection of a dormer window to the front.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The submitted plans show the overall development as including both front and rear dormer windows. The application form refers only to the front dormer and the Council has taken the view that this relates to the fact that the rear dormer could be constructed using permitted development rights. I concur with this view and the main issue therefore reflects this.

## Main Issue

3. The main issue in this case is the effect of the proposed front dormer on the character and appearance of the area around Meltham Road, and the setting of the adjacent Marsden Conservation Area.

## Reasons

4. Rose Hill Cottage is a small detached bungalow situated on the south side of Meltham Road, close to its junction with Manchester Road and Brougham Road. The properties on the north side of Manchester Road, including those on Brougham Road lie within the Marsden Conservation Area (CA). Rose Hill Cottage, along with the row of terraced houses to the west of the appeal property, is not included in the CA, although the detached house immediately to the east of the bungalow is within the CA. There is a row of more modern brick-built terraced houses to the rear of the bungalow.
5. By virtue of the topography of the area, Rose Hill Cottage is set well above the road. It is partly hidden behind a front hedge but the roof in particular is readily visible in the street scene from around the road junction, and especially

when approaching from Brougham Road where it forms something of a terminal vista. It is stone-built with a shallow slate roof that has a gable at the eastern end and a hipped roof at the western end. It has a small front garden below the level of the dwelling, and another small garden to the eastern side. At the rear there is an open area of land that appears to relate to the more modern houses behind.

6. The proposed development would involve the construction of a large flat-roofed dormer to the rear roof slope, extending between the gable end and the start of the hipped element. It would also involve the construction of a smaller flat-roofed dormer to the front roof slope that would be set in a little from the gable end and up a little from the eaves. It would also be set in from the western end of the ridge. This front dormer would have a large, wide front window and a small window in each of the side cheeks. It would appear that the dormer would be some 3 metres wide with a forward projection of around 3.7 metres and a height of 2 metres extending up to ridge level.
7. Other than a small front dormer within the steep roof slopes of Brougham Road, there would appear to be no dormers of the scale and design of that proposed for the appeal property in the vicinity, whether inside or outside of the CA. The front dormer proposed at Rose Hill Cottage would, therefore, be significantly out of character with the surrounding area. Moreover, given the scale and design of the dormer on what is a relatively small bungalow with a shallow pitched roof, it would appear out of scale with the host property, while the large horizontally aligned front window would appear out of character with the small vertically aligned windows in the front elevation of the bungalow.
8. On the basis of the above, I find that the proposed front dormer would not respect the design features of the existing bungalow and adjacent buildings, nor those features creating the wider local identity. It would also be detrimental to the visual amenity of the local area. It would therefore, conflict with Policies BE1, BE2, BE5, BE13, BE14 and BE15 of the Council's Unitary Development Plan, which relate to the design of new developments, including the design of developments in Conservation Areas and the design criteria for the construction of dormers.
9. In conclusion, the proposal would be harmful to the character and appearance of the area around Meltham Road and it would also, therefore, fail to preserve or enhance the character or appearance of the surrounding CA.

*J D Westbrook*

INSPECTOR



## Appeal Decision

Site visit made on 19 October 2017

by **D Guiver LLB(Hons) Solicitor**

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

Decision date: 6 November 2017

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**Appeal Ref: APP/Z4718/W/17/3181496**

**1 Wheat Close, Holmbridge, Holmfirth HD9 2QL**

- 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 D Trueman against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/62/90477/W, dated 9 February 2016, was refused by notice dated 27 June 2017.
  - The development proposed is conversion of outbuilding to form holiday accommodation.
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### Decision

1. The appeal is allowed and planning permission is granted for conversion of outbuilding to form holiday accommodation at 1 Wheat Close, Holmbridge, Holmfirth HD9 2QL in accordance with the terms of the application, Ref 2016/62/90477/W, dated 9 February 2016, subject to the conditions in the attached Schedule.

### Application for costs

2. An application for costs was made by Mr D Trueman against Kirklees Metropolitan Borough Council. This application is the subject of a separate Decision.

### Preliminary Matters

3. The appellant has submitted an executed unilateral undertaking (UU) pursuant to section 106 of the Town and Country Planning Act 1990, which would secure restrictions on parking at, and occupancy of, the proposed development. I will address this issue below.

### Main Issue

4. The main issues are:
  - whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework);
  - the effect of the proposed development on the openness and the character and appearance of the surrounding area; and
  - whether a planning obligation to restrict parking at, and occupancy of, the proposed development is necessary.

## Reasons

5. Wheat Close comprises a short terrace of nine or so stone built houses in a rural setting and is in designated Green Belt land and part of the Yateholme Reservoirs and Plantation Local Wildlife Site. The appeal site is a largely stone built single-storey detached outbuilding adjacent to 1 Wheat Close. The building has a grey slate roof and an attached timber-built store and dog pen. The site overlooks the Brownhill Reservoir and its dam and is rural in character.
6. The proposal is to remove the dog pen and to change the use of the existing building to form a single-bedroom holiday accommodation. This would involve the designation of a vehicle hardstanding and the addition or replacement of windows and doors. Internal reconfiguration would also require the relocation of an existing flue on the rear pitch of the roof.

### *Whether the Proposal would be Inappropriate Development*

7. The Council contends that a proposed change of use of an outbuilding to form holiday accommodation does not fall within any of the exceptions to inappropriate development in paragraphs 89 and 90 of the Framework. As paragraph 89 relates to construction of new buildings the relevant exceptions would be in paragraph 90.
8. Paragraph 90 of the Framework provides that certain forms of development are not inappropriate in Green Belt provided they preserve the openness, and do not conflict with the purposes, of the Green Belt. The fourth category is the re-use of buildings provided that the buildings are of permanent and substantial construction.
9. There is no reference in paragraph 90 to the specific use to which a building might be put and I consider that the reference to the re-use of buildings implies the potential for a change of use.
10. Paragraph 80 of the Framework identifies the five purposes of Green Belt policy. The proposal does not involve any extension to the existing building but rather involves the removal of an existing structure attached to the building. I consider that the scheme would not conflict with any of the purposes in Paragraph 80.
11. This structure to be removed is presently visible and somewhat bulky in appearance and its removal would increase the openness of the Green Belt in the location of the appeal site by eliminating its visual impact. While the scheme also shows the creation of a designated parking space, that space is already available for the parking of vehicles and this part of the scheme would have a neutral effect.
12. Because the scheme would satisfy the purposes of Green Belt policy and would reuse an existing building while preserving the openness of the Green Belt, I conclude that the proposal would not be inappropriate development.

### *Character and Appearance*

13. The external works associated with the re-use of the building would improve the appearance of the area by the removal of the bulky timber dog pen to create a more open aspect at the appeal site. The minor alterations to windows and doors would have no detrimental impact on appearance. The use

of the building as holiday accommodation would not conflict with the rural character of the area.

14. Therefore, I conclude that the proposed development would be in accordance with Policies BE1 and BE2 of the Kirklees Unitary Development Plan 2007 (the Local Plan), which seek to ensure that developments preserve the character and appearance of the area where they are situated.

#### *Section 106 Planning Obligation*

15. Paragraph 203 of the National Planning Policy Framework (the Framework) states that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
16. Paragraph 204 of the Framework states that planning obligations should only be sought where they meet the following three tests:
- they are necessary to make the development acceptable in planning terms;
  - they are directly related to the development; and
  - they are fairly and reasonably related in scale and kind to the development.
17. In the UU the appellant covenants that the appeal property would not be used as holiday accommodation in the months of November, December and January. The UU would restrict the duration of any single occupancy to a maximum of 28 days and would impose a 14-day period that must elapse before any person is permitted to return following a period of occupation.
18. The UU would also require the appellant to keep a register of occupants that could be requested by the Council at any time on reasonable notice. Finally, there would be a requirement that occupants of the appeal property park only in the dedicated parking space defined in the UU.
19. The proposed obligations relating to the months and duration of lettings, the time that must elapse between re-lettings and parking restrictions are by nature prohibitions. These could be achieved by the imposition of planning conditions that would be sufficient to address the Council's concerns. Therefore these proposed obligations would not satisfy the preliminary test in paragraph 203 of the Framework.
20. The proposed obligation to keep a register of occupants that the Council can request to see does have a positive requirement. However, I consider that such a requirement is more akin to a licensing matter or to provide evidence for the enforcement of conditions. I consider that such a requirement would not meet any of the tests in paragraph 204 of the Framework. For these reasons I give the UU no weight in reaching my decision.

#### **Conditions**

21. The conditions set out in the accompanying schedule are based on those suggested by the Council and for the reasons set out at paragraph 19 above, the proposed obligations in the UU. Where necessary I have amended the wording of these in the interests of precision and clarity in order to comply with the advice in the Planning Practice Guidance.
22. In the interests of proper planning I have imposed the standard condition in respect of time limits. For certainty I have imposed a condition requiring

compliance with the plans. In the interests of highway safety I have imposed conditions ensure that a designated parking space will be provided and to prevent water from encroaching onto the road.

23. To preserve the openness of the Green Belt in compliance with Policy D12A of the Local Plan, I have imposed a condition removing permitted development rights for alterations, extensions and outbuildings. To ensure that the appeal property is used for holiday accommodation I have imposed conditions restricting the months and duration of occupation.
24. Amongst other things, paragraph 109 of the Framework seeks to ensure that developments do not create or contribute to an unacceptable risk of air pollution. There is no evidence before me that the proposed development poses such a risk. The Council has requested a condition requiring the installation of a charging point for electric vehicles. While a charging point would provide an opportunity for future occupiers who drive electric cars to charge vehicles, there is no certainty that such vehicles would be used and the impact is therefore impossible to ascertain. Therefore, as neither the risk nor the need are made out I consider it unnecessary to impose the condition sought.

### **Other Matters**

25. There is a reference in the papers to historical enforcement action in respect of the appeal building. An omission of this reference was apparently one of the reasons that an earlier decision granting planning permission was referred back to members for reconsideration.
26. However, it is clear from the evidence before me that the Council's enquiries did not proceed to enforcement action and there is no issue before me of the lawfulness of the building. I therefore attach very little weight to any reference to enforcement action.
27. Third parties have raised issues about traffic and parking on the access road for the properties. However, the road is currently used by residents and visitors and an additional vehicle would result in a negligible increase in traffic on the access road. Parking by future occupants of the proposed development would be controlled by a planning condition.

### **Conclusion**

28. For the reasons given above, and taking into account all other matters, I therefore conclude that the appeal should be allowed.

*D Guiver*

**INSPECTOR**

## **Schedule**

- 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: Tru.15/01b, Tru.15/06d, Tru.15/07d and Tru.15/08c.
- 3) The building shall not be occupied until the area shown marked 'parking space' on drawing no. Tru.15/08c has been drained and surfaced in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, and that area shall thereafter be kept available at all times for the parking of vehicles.
- 4) No vehicle used by occupants of the building shall be parked at any place shown on drawing no. Tru.15/01b other than on the parking space referred to in condition 3.
- 5) The development hereby permitted shall not be used as holiday accommodation between 1 November in any one year and 31 January in the succeeding year.
- 6) No person occupying the building as holiday accommodation shall remain as an occupier for a continuous period of more than 28 days. Having vacated the building no person shall return to occupy the building overnight until a minimum period of 14 days has elapsed.
- 7) 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 alterations, extensions or outbuildings included in Classes A to E of Part 1 of Schedule 2 to that Order shall be carried out.



## Appeal Decision

Site visit made on 23 October 2017

**by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC**

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

**Decision date: 9<sup>th</sup> November 2017**

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**Appeal Ref: APP/Z4718/D/17/3178751**

**33 Cliff Road, Holmfirth HD9 1UY**

- 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 Mrs J Coe against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2017/62/90625/W, dated 17 February 2017, was refused by notice dated 25 April 2017.
  - The development proposed is new roof extension and internal alterations.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. I note that the appellant is particularly concerned that the Council did not seek amendments in design or materials during its consideration of the application. However, I have to consider the appeal on the basis of the scheme on which the Council made its decision and I have done so.

### Main Issue

3. The main issue raised by this appeal is the effect the proposed roof extension would have on the character and appearance of the host building and the area.

### Reasons

4. The appeal property is a mid-terraced house of traditional appearance with stone walls and roof. As a result of its situation set down from Cliff Road, the roofs of the appeal property and its neighbours in the terrace are prominent in the streetscene and form a strong linear feature. These aspects contribute to the positive contribution the host building and the terrace make to the character and appearance of the area.
5. The appeal proposal would extend an existing single storey extension to the front vertically with a full width extension with a predominantly glazed, oak framed gable forming a prominent feature facing Cliff Road. Its ridge would be just below that of the existing roof and run perpendicular to it. From my observations, extensive glazing or timber framing of the type proposed is not a feature which predominates in surrounding traditional buildings, particularly at roof level.
6. As a result of its height, scale and extent, the extension would fundamentally change the appearance of the front elevation of the host building and interrupt

the linear character of the terrace, in particular its front roof slope and result in a dominant feature. Its design would appear at odds with the more solid and traditional character of the host building and its neighbours.

7. The extension would be considerably larger than, and materially different to, existing front extensions to other properties in the terrace which rise above eaves level. That at 39 Cliff Road (referred to me by the appellant) only extends to approximately half the width of the house and has a notably smaller perpendicular roof and that at 29 Cliff Road is smaller still, albeit with a modest timber and glass gable element. As a result I do not consider that these other extensions have altered the front elevations or roofscape to such a degree that the proposal would appear less incongruous.
8. As a result the extension would materially harm the character and appearance of both the host dwelling, the terrace in which it is situated and the area. It would consequently be contrary to the good design, visual amenity and character protection requirements of saved UDP<sup>1</sup> Policies D2, BE1 and BE2. In particular it would conflict with the requirements of saved UDP Policies BE13 and BE14 that extensions to the front or main elevation should be relatively small in scale and should respect design features and materials of the existing house and adjacent buildings.
9. It would not accord with the National Planning Policy Framework's (the Framework) aims of always seeking to secure high quality design which responds to local character and reflects the identity of local surroundings and materials. I do not consider that planning conditions could effectively mitigate the harm I have identified above or make the proposal acceptable.

### **Conclusion**

10. For the above reasons, the proposal would harm the character and appearance of the host building and the area contrary to the development plan and the Framework. The appeal is therefore dismissed.

*Geoff Underwood*

INSPECTOR

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<sup>1</sup> Kirklees Unitary Development Plan, 1999.