



Appeal Decision

Site visit made on 27 February 2018

by **Gareth Wildgoose BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 March 2018

Appeal Ref: APP/Z4718/D/17/3189987

120 Savile Road, Savile Town, Dewsbury WF12 9LP

- 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 Nazir Musa against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/91900/E, dated 5 June 2017, was refused by notice dated 2 October 2017.
 - The development proposed is front and rear dormers.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's evidence makes reference to Policies PLP1, PLP2, PLP21 and PLP24 of the Emerging Kirklees Local Plan publication version which was submitted for examination in April 2017. However, the Emerging Local Plan has yet to be adopted and there is no evidence before me as to whether the policies are subject to any unresolved objections. Those circumstances limit the weight I can give to the policies of the Emerging Kirklees Local Plan when determining this appeal. I have, therefore, determined the appeal principally on the basis of the saved policies of the Kirklees Unitary Development Plan (UDP), adopted March 1999, taking account of the National Planning Policy Framework (the Framework).

Main Issues

3. The main issues of this appeal are:
 - the effect on the living conditions of occupiers of neighbouring properties, with particular regard to 11 Warren Street (No 11) and matters of privacy, and;
 - the effect on the character and appearance of the host building and the area.

Reasons

Living conditions - neighbours

4. The appeal site consists of 120 Savile Road (No 120), a two storey semi-detached property located relatively close to a junction with Warren Street. No 120 has an existing single storey rear extension and a two storey side

- extension with planning permission that is under construction. The appeal proposal relates to front and rear dormers proposed within the roof of the side extension which were also under construction at the time of my visit.
5. No 11 is a two storey property at the rear which faces Warren Street. The rear building lines of the appeal property and No 11 are at differing angles with an unusually close relationship between rear elevations due to the varied alignment of Savile Road and Warren Street. The separation distance has been further eroded by two storey and single storey rear extensions to No 11 and the side extension to the appeal property that is under construction. There is no evidence before me as to the specific circumstances which led to the Council previously granting planning permission for the two storey side extension at No 120. Furthermore, I am not aware of the planning status and circumstances that led to the existing two storey and single storey rear extensions and a rear dormer at No 11. Nonetheless, the cumulative effect of the close relationship of the properties and respective extensions has resulted in some overlooking between habitable windows in the rear elevations of the properties and a loss of privacy to rear amenity areas.
 6. Notwithstanding the above, the reduced levels of privacy currently experienced by occupiers of No 120 and No 11 does not justify exacerbating overlooking of habitable rooms and private amenity areas. Although the siting of the rear dormer would incorporate a set back from the rear building line of No 120 that would prevent any overbearing effect, its elevated position would increase the overlooking of the rear amenity area of No 11. It would also introduce opportunities for additional overlooking of windows in an existing rear dormer and at first floor level of the neighbouring property. The relationship between the respective habitable windows although slightly angled would be unacceptably close and there would be intensified overlooking of the rear amenity area, which would harm the living conditions of occupiers of No 11 through an increased loss of privacy.
 7. In contrast, the proposed front dormer faces towards playing fields on the opposite side of Savile Road and would not affect the habitable windows of properties nearby. As a consequence, the front dormer would not harm the living conditions of occupiers of neighbouring properties. However, the absence of concern in that respect is a neutral factor and does not override the harm identified in terms of the rear dormer. The two elements of the proposal are not severable as both dormers relate to roofspace accommodation within the two storey side extension that is under construction.
 8. In reaching the above findings, I have considered whether conditions could overcome the harm I have identified with respect to the rear dormer in terms of privacy and overlooking. However, it would not be reasonable to require installation of obscure glazing and a restriction upon the opening mechanism of a dormer window intended to serve a bedroom as such an approach could have an adverse effect upon the living environment for future occupiers.
 9. I conclude that the development would result in significant harm to the living conditions of occupiers of No 11 Warren Street with respect to overlooking and a loss of privacy. The proposal would, therefore, conflict with Saved Policies D2 and BE14 of the UDP which seek to protect residential amenity. The policies are consistent with the Framework which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Character and appearance

10. The appeal property has a pitched roof design with a side gable end. The on-going construction of a two storey side extension of considerable width with consistent front building line and roof form has elongated the frontage of No 120. The immediate surroundings have a variety of property styles, scale and proportions including a predominance of semi-detached properties and terraced rows, together with the intermittent presence of detached dwellings. When taking account of the side extension, the semi-detached pair has proportions that are not dissimilar to some terraced rows in the wider area.
11. There are numerous examples of front dormers and other roof alterations visible along Savile Road, Warren Street and Headfield Road, including a front dormer with a similar front gable design, scale, proportions and materials at No 144 Savile Road. In that context and taking account of the varied character of surrounding properties, the front dormer would be viewed as a complementary addition to the area. Furthermore, it would be subservient to the character and appearance of the host building given that its siting, scale and proportions would assimilate with the neighbouring terraced rows where front dormers are an intermittent feature.
12. In reaching the above findings, I have taken into account that the proposed front dormer does not appear to meet the requirements of Saved Policy BE15 of the UDP in terms of its proximity to the gutter line and the ridge of the roof, and in so far as it is not centrally placed. However, in the particular circumstances of the property and its surroundings, I have found that it would not harm the character and appearance of the host building and the area.
13. The Council have not expressed any specific concern with respect to the siting, design, scale and proportions of the rear dormer. Based upon the evidence before me and my observation of the site and its surroundings, I have no reason to take a different view. Rear dormers of varying design, scale, proportions and materials are a common feature of the locality and therefore, the proposal would not appear prominent, dominant or incongruous within the street scenes of Savile Road and Warren Street where it would be visible from limited public vantage points.
14. I conclude that the development would not have an unacceptable impact upon the character and appearance of the host building or the area. The proposal, therefore, does not conflict with Saved Policies D2, BE1 and BE13 of the UDP in that respect. When taken together the policies, amongst other things, seek good quality design, a sense of local identity and no prejudice to the character of the surroundings, including with respect to materials, window openings, roof styles and architectural detailing. The policies are consistent with the design objectives of the Framework. In the particular circumstances of this case, the conflict with Saved Policy BE15 of the UDP is not a decisive factor as it is outweighed by the absence of harm to the character and appearance of the host building and the area.

Other Matters

15. The appellant's concerns in terms of the Council's approach to pre-application discussions and when determining the application are not influential matters as I have considered the appeal proposal on its merits. The appeal relates to an application for planning permission which was refused by the Council. In that

regard, the works undertaken to date without planning permission were at the appellant's own risk. The outcome of this appeal does not obligate enforcement action nor does it preclude the possibility of a revised proposal, which would necessarily be considered by the local planning authority in the first instance. Consequently, the financial investment made as part of the construction of the dormers and the possible costs associated with removal of the dormers are not influential factors when determining this appeal.

Conclusion

16. I have found no harm to the character and appearance of the host building and the area. However, there would be significant harm with respect to the effect of the proposal on the living conditions of occupiers of neighbouring properties, specifically No 11 Warren Street in terms of a loss of privacy, which is an overriding factor that reflects conflict with the development plan and the Framework when taken as a whole.
17. For those reasons and taking all other matters into consideration, I conclude that this appeal should be dismissed.

Gareth Wildgoose

INSPECTOR



Appeal Decision

Site visit made on 27 February 2018

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

an Inspector appointed by the Secretary of State

Decision date: 16 March 2018

Appeal Ref: APP/Z4718/D/18/3192860

32a Gregory Springs Lane, Lower Hopton, Mirfield, WF14 8LE

- 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 John Hutchinson against the decision of Kirklees Metropolitan Council.
 - The application Ref 2017/62/91476/E, dated 20 April 2017, was refused by notice dated 8 November 2017.
 - The development proposed is first floor front and rear extensions.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies,
 - the effect of the proposals on the character and appearance of the area around Gregory Springs Lane, and
 - whether harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal?

Reasons

3. The appeal property is a large detached house situated at the head of a cul-de-sac known as Gregory Springs Road. It comprises two, two-storey wings aligned approximately north-south with a connecting two-storey section aligned approximately east-west. There is a large attached garage to the northern side of the house. It lies within the Green Belt. On the western side of Gregory Springs Lane there is a small number of detached houses and on the eastern side are the rear boundaries of houses fronting Gregory Springs Mount. No 32 Gregory Springs Lane is also accessed from the head of the road, and is a large detached house with some modern-looking features or extensions.
4. The proposed development would involve the construction of a first-floor extension above the garage to accommodate a bedroom and en-suite bathroom. There would also be a small first floor extension to a rear bedroom, above what is currently a flat roof to the ground floor living room bay window.

5. No 32a was extended following planning permission granted in 1980. The original house appears to have been a small 1-bedroomed cottage, occupying what is now the easterly of the two north-south aligned sections. Whilst I have no detailed figures, the current house appears to occupy a footprint around three times that of the original cottage and it also has a significantly greater overall volume, at around three times the size of the original building. The current proposal would not add a great amount to the volume of the house as existing, but when taken with the earlier extensions, it would represent a disproportionate addition over and above the size of the original building. On this basis, it would be inappropriate development in the Green Belt.
6. The National Planning Policy Framework (NPPF) states that "inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances". It continues by stating that "when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations". In this case the proposals would be inappropriate and they would, in addition, result in an increase in the bulk of the existing house which would have an effect on the openness of the Green Belt which, although slight, would add to the harm.
7. The appellant contends that the first-floor extension above the garage would enable him to stay in the property and look after an aging father with dementia. I have the greatest sympathy with the appellant's circumstances but from the information before me, it is not clear that the proposals are the only way of dealing with this problem and, in any case, the extension would remain in place subsequent to the appellant ceasing to live there.
8. The appellant also refers to recent extensions at the adjacent No 32 Gregory Springs Lane. However, I have no details of these extensions or how they relate to the size of the original building. In any event, I have dealt with this case on its own merits.
9. On balance, I find that the other considerations put forward by the appellant do not clearly outweigh the significant harm to the Green Belt that would be caused by this proposal.
10. The Council contends that "the cumulative impact of the existing and proposed extensions would amount to an over-complicated design; substantially increasing the size of the original building and result in the loss of its simple design form. As such it cannot be considered in keeping with the character of the original building". I concur that the proposed extensions, when taken with the earlier additions would render the proposed dwelling out of character with the original building. However, in this case, the existing dwelling was extended subsequent to a planning permission granted in 1980, and I do not consider that the current proposal, which is relatively small in scale and sympathetic to the design of the existing building, would appear out of character with the host building or its surroundings. It would not, therefore, in itself, be harmful to the character or appearance of the area around Gregory Springs Lane.
11. In conclusion, and in the light of the above, I find that the proposal would not be harmful to the character of appearance of the area around Gregory Springs Lane, and that it would not conflict with policies BE1, BE2, BE13, or BE14 of the

Council's Unitary Development Plan (UDP). However, it would be inappropriate development in the Green Belt and would have a harmful effect on its openness, albeit slight. There are no other considerations that clearly outweigh the harm to the Green Belt and there are therefore no very special circumstances to justify the inappropriate development. The proposal conflicts with the NPPF and with Policy D11 of the UDP, which relates to development in the Green Belt, and which reflects the thrust of the NPPF.

J D Westbrook

INSPECTOR



Appeal Decision

Site visit made on 19 March 2018

by **Michael Moffoot DipTP MRTPI DipMgt**

an Inspector appointed by the Secretary of State

Decision date: 5th April 2018

Appeal Ref: APP/Z4718/W/18/3193008

Land adjacent to 678B Bradford Road, Birkenshaw BD11 2EE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of an outline planning permission.
 - The appeal is made by Mr I Stuart against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref: 2017/61/92671/E, dated 1 August 2017, sought approval of details pursuant to condition No 2 of outline planning permission Ref: 2016/60/90511/E granted on 8 December 2016.
 - The application was refused by notice dated 5 December 2017.
 - The development proposed is 'reserved matters application pursuant to outline permission 2016/90511 for erection of one dwelling'.
 - The details for which approval is sought are: appearance, landscaping, layout and scale.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposed development in the 5th bullet point (above) is taken from the decision notice and follows the grant of outline planning permission on appeal for a single dwelling on the site in 2016¹.
3. The appeal papers include an amended location plan incorporating land to the south of the site which the appellant submits would provide additional amenity space for the proposed dwelling and thus overcome the Council's concerns in this regard. However, this amendment significantly enlarges the site and materially alters the nature of the proposal by encroaching on to part of the designated 'Urban Greenspace' to the south. Furthermore, the red line accords with that of the outline planning permission and, as the application seeks approval of reserved matters, I am confined to determining the appeal on the basis of the red lined site before me. I do not therefore intend to take this revised plan into account in determining the appeal.
4. The appeal papers and decision notice include reference to various policies in the *Kirklees Publication Draft Local Plan*. It is not clear what stage the document has reached in the process leading to formal adoption and this limits the weight to be accorded to it. Nevertheless it is a material consideration in my decision.

¹ Appeal ref: APP/Z4718/W/16/3157920

Main Issues

5. The main issues in this case are:

- (i) the effect of the proposed development on the character and appearance of the area; and
- (ii) whether the development would provide satisfactory living conditions for future residents, with particular reference to amenity space.

Reasons

Character and appearance

6. The appeal site includes a rectangular parcel of open land located at the eastern end of a private drive off Bradford Road that serves a number of modern detached dwellings. Surrounding development is predominantly residential in nature and generally consists of large houses on substantial plots. There is an extensive area of generally undeveloped land to the east of the site.
7. The previous Inspector noted that a single dwelling on the appeal site would not of necessity be out of kilter with the prevailing character of the area or incongruous with the immediate development pattern. He concluded that detailed design and siting at the reserved matters stage could ensure that the orientation and development of the plot could be carried out in a manner sensitive to its surroundings. I concur with these findings.
8. The proposal comprises a substantial six bedroomed dwelling over three floors and includes residential accommodation above an attached double garage. The building would be in very close proximity to three of the site's four boundaries whilst the area to the front would be largely taken up by a parking and turning area.
9. The substantial size and scale of the dwelling and the restricted extent of the site would result in a severely cramped form of development which would be wholly out of keeping with the spacious arrangement of residential development in the vicinity. It would therefore seriously harm the character and appearance of the area. As such, the proposal would be contrary to those parts of saved policies BE1 and BE12 of the *Kirklees Unitary Development Plan (2007)* ('the UDP'). Between them they require good quality design that is visually attractive, retains a sense of local identity and, in the case of new dwellings, provides physical separation from adjacent property and land. Moreover, it would conflict with the *National Planning Policy Framework* ('the Framework'), which identifies good design as a key aspect of sustainable development, attaches great importance to the design of the built environment and requires proposals to add to the overall quality of the area.

Occupiers' living conditions

10. Amongst other things, policy BE12 of the UDP requires that new dwellings should be designed to provide open space for their occupants, with a minimum acceptable distance of 1.5m between any wall and the boundary of any adjacent undeveloped land.
11. The proposed dwelling would generally accord with this standard. However, the supporting text to the policy requires a reasonable amount of space around new dwellings in the interests of the amenity of future residents. There would be no

functional amenity space to the south and east of the proposed dwelling and the area to the west of the building would be small, oppressive and inadequate to cater for the reasonable recreational needs of the occupiers of this substantial, six bedroomed property. The area to the front of the dwelling would predominantly comprise hardsurfaced parking/turning space and would not provide useable amenity space.

12. The proposed development would therefore fail to provide satisfactory living conditions for future residents, contrary to those parts of policies BE1 and BE12 of the UDP which require good quality development that promotes a healthy environment, including space around buildings and open space for occupants. It would also conflict with one of the core principles in the Framework which states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

13. The appellant advises that the proposed amenity space would be adequate to meet the needs of his family, who would occupy the dwelling. However, ownership of the property may well change in the future, and the scheme would fail to provide an acceptable level of private space commensurate with the size of the dwelling and a level of amenity sufficient to afford future occupants a satisfactory residential environment.
14. Whilst the proposal would make a modest contribution to housing in the Borough where I understand there is a shortfall in the five-year supply of housing land required by the Framework, this does not significantly and demonstrably outweigh the harm to the character and appearance of the area and future residents' living conditions I have identified.

Conclusion

15. For the reasons set out above, I conclude that the proposal is unacceptable and the appeal should fail.

Michael Moffoot

Inspector