



Appeal Decision

Site visit made on 23 January 2018

by Mike Worden BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st March 2018

Appeal Ref: APP/M9496/W/17/3183587

Royd, Magdalen Road, Meltham, Huddersfield

- 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 and Mrs Lewis Haigh against the decision of Peak District National Park Authority.
 - The application Ref NP/K/0317/0264, dated 14 March 2017, was refused by notice dated 10 May 2017.
 - The development proposed is renovation of farmhouse and change of use of barn to form single family dwellinghouse.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the area having particular regard to the statutory purposes of the National Park, which include conserving and enhancing the natural beauty of the park;
 - whether the proposed development would accord with development plan policies which seek to restrict open market housing in the Peak District National Park; and,
 - the effect of the proposed development on protected species.

Reasons

Character and appearance

3. The appeal property is a derelict former farmhouse and attached barn, standing in open countryside. It sits on a side of a hill overlooking a deep wooded valley. It is located around 340m from a road and is accessed off an unmade track with a footpath along it. No specific provision for car parking on the appeal site has been shown on the submitted plans.
4. Although only around 1km from Meltham, the character of the area is one of remoteness and the higher moorland to the south and west is dominant. It lies within an area defined in the *Peak District Landscape Character Assessment* as

'Slopes and valleys with woodland' character type, within the 'Dark Peak Yorkshire Fringe' landscape area.

5. The appeal property is a former laithe house, and built of natural gritstone. It has long been abandoned, extremely dilapidated and has no roof. Some parts of the walling are missing. Since it is an historic farmstead, the Peak District National Park Authority considers it to be a non-designated heritage asset. As it has been on the site since the nineteenth century, the building itself is part of the character of the area. The land around the building is not demarked by boundary fences and the building appears as part of the wider landscape.
6. The proposed development is to carry out a renovation of the property and use both the farmhouse and the barn as a single dwelling. The proposed development would involve putting a new roof on the property and rebuilding those parts of the walls which have collapsed.
7. The appeal site includes land around the building although no details of how this land would be used is provided. I have approached the appeal on the basis that it is likely to be used for domestic purposes typically with a dwelling such as garden and car parking, which appears also to be the basis on which the authority considered the scheme. Nor is there a scheme of any works necessary to provide a suitable access to the buildings. However, looking at the proposal as a whole, including the submitted Landscape and Visual Impact Assessment (LVIA), it appears that the intention is to utilise the existing track leading up to the building from Magdalen Road, and this is the basis on which the authority considered the scheme. The level nature and condition of this track is such that significant works would be required if it is to provide a suitable access. The application form indicates that the access would be of hardcore and gravel.
8. The proposed development would introduce domestic activity into the landscape, in particular the parking of cars and locating domestic paraphernalia. Conditions could be imposed to restrict some forms of development which would otherwise be permitted, but the parking of cars at the site and the likely existence of domestic paraphernalia would be visible from outside of the site. This would tend to jar within the landscape given the general absence of such forms in the environs and detract from the isolated nature and scenic beauty of the area. It would also be in marked contrast to the current character of the site which very obviously has no current domestic use and has largely blended into the wider landscape. I consider that it would harm the character and appearance of the area.
9. The access track to the property from Magdalen Road is difficult to negotiate and not easily defined. It slopes down from a gate in the road, follows a gritstone wall and then contours around the edge of the hill. It has the appearance of a pedestrian track which leads on to the moors. It is not passable by a normal family car. On my site visit, the track was very wet and parts of it impassable on foot, forcing me to take a line alongside it. In the summer months, the track would be in better condition. I consider however that to provide suitable access for motor vehicles to reach the appeal building, the track would need considerable upgrading and engineering works.
10. These works would fundamentally alter the character and appearance of area by creating a robust and lengthy track for vehicles, across the sloping landscape. The existing track blends in well with the rural landscape and does

not stand out. It is consistent with the character of the area. However, I consider that the upgraded track would significantly harm the character and appearance of the area which it would cross, between Magdalen Road and the appeal property. Although the LVIA refers to the need for the access to be designed so as to blend into the landscape and replicate the appearance of the existing access tracks in the vicinity, there are no details before me, other than an indication of the proposed materials, to show how this could be achieved. I accept that whilst the works to the building would not harm the heritage asset and would lead to a beneficial appearance of the derelict building, the effect of the proposal on the area surrounding it and the area between it and Magdalen Road would be harmful.

11. For the reasons set out above, I consider that the proposed development would have a significantly harmful effect on the character and appearance of the area. It would be contrary to one of the statutory purposes of the National Park, that is: *conserving and enhancing the natural beauty, wildlife and cultural heritage of the area*. It would also be contrary to Policies GSP1, GSP3 and L1 of the *Peak District National Park Local Development Framework Core Strategy Development Plan Document* (the Core Strategy). These policies respectively seek to secure National Park purposes and sustainable development; set out development management principles; and, seek the conservation and enhancement of protected landscapes.
12. The proposed development would also be contrary to saved Policy LC4 of the *Peak District National Park Local Plan* (the Local Plan), which sets out criteria for design, layout and landscaping of new developments. It would also be contrary to saved Policy LC8 (ii) of the Local Plan which requires that the conversion of buildings of historic or vernacular merit do not adversely affect their character or have an adverse impact on their surroundings. In reaching this view, I have had regard to Paragraph 115 of the Framework which indicates that great weight should be given to conserving landscape and scenic beauty in the National Parks.

Open market housing

13. Policy HC1 of the Core Strategy seeks to restrict the development of new open market housing in the National Park. This continues the long standing approach to managing the significant open market demand which exists in the National Park and to focus new housing provision on meeting local need. The policy sets out a number of exceptions to this approach. The proposed development does not meet any of the exceptions listed in part A or part B of Policy HC1. In accordance with part C, new open market housing is allowed if it is required in order to achieve the conservation and/or enhancement of valued vernacular or listed buildings, subject to also meeting two other policies, GSP1 and GSP2.
14. The Authority regards the appeal property as a non-designated heritage asset and that it is a vernacular building. However I have already concluded that the proposed development would fail to meet the requirements of Policy GSP1 of the Core Strategy as it would not accord with securing National Park purposes and sustainable development, as it would cause significant harm to the character and appearance of the area.
15. Policy GSP2 supports proposals for the enhancement of the National Park provided, amongst other things, that they offer significant benefit to the natural beauty, wildlife and cultural heritage of the area. The proposed

development is not a scheme for the enhancement of the National Park and would harm its character and appearance. Consequently I conclude that the proposed development would fail to meet either Policy GSP1 or Policy GSP2 and therefore would not meet the requirements of Policy HC1.

Protected Species

16. A preliminary Bat Roost Assessment was undertaken and a report submitted by the appellant. The appeal site was assessed as having moderate suitability for roosting bats. Bats are a European Protected Species. I therefore consider that there is a reasonable likelihood that protected species are present. The Bat Roost Assessment clearly recommends that further survey work be undertaken to establish whether bats are present and identify any potential impact that the development may have on the protected species. This additional survey work has not been submitted.
17. Circular 06/2005 states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. Paragraph 99 of the Circular makes it clear that the presence or otherwise of protected species needs to be established before planning permission is granted, otherwise all material considerations may not have been addressed in making the decision. The Circular also makes it clear that imposing a condition to require a survey should only be in exceptional circumstances. The appellant has proposed mitigation work in the form of bat boxes, but this is in advance of the further survey work being undertaken and any necessary mitigation measures agreed.
18. I therefore consider that insufficient information has been provided to determine whether or not the proposed development would be harmful to protected species. The proposed development would therefore be contrary to Policy L2 of the Core Strategy which seeks to conserve and enhance sites of biodiversity or geodiversity importance, and saved Policy LC17 of the Local Plan which is concerned with protecting sites, features or species of wildlife, geological or geomorphological importance.

Conclusion

19. For the reasons above, and having considered all matters raised, I conclude that the appeal should be dismissed.

Mike Worden

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: 23rd March 2018

Appeal Ref: APP/Z4718/W/17/3191336

35/37 Upper Mount Street, Lockwood, Huddersfield HD1 3RX

- 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 Messrs J & M Hussain against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref: 2017/62/91555/W, dated 12 May 2017, was refused by notice dated 26 October 2017.
 - The development proposed is formation of driveway through ground floor of 35/37, alterations to form flat above and change of use of land to form parking and turning area.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal includes the creation of a flat at upper floor level. There is no dispute between the main parties regarding this element of the scheme, and I see no reason to disagree. I shall therefore confine my detailed considerations to the proposed driveway and parking/turning area.
3. The appeal papers and decision notice includes 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.

Main Issues

4. The main issues in this case are:
 - (i) the effect of the proposed development on the character and appearance of the area; and
 - (ii) the effect of the proposal on the living conditions of neighbouring residents, with particular reference to noise and disturbance.

Reasons

Effect on character and appearance of area

5. Upper Mount Street is characterised by predominantly two-storey 'through' terraced dwellings, where one property is set behind another. The buildings are

generally of coursed stone construction under slate roofs and feature small front gardens enclosed by stone walls topped with railings. The street is steep and on-street parking predominates.

6. No 35 is set in front of No 37 and there is a hard-surfaced forecourt to the front which provides off-street parking. The proposal includes removal of the ground floor of the two properties to create an access way through to the land at the rear, where four parking spaces and a turning area would be formed on an area currently overgrown and used for casual storage. A new staircase would be formed to provide access to a three-bedroomed dwelling to be created at first floor and attic level.
7. Linear terraces extend along both sides of the street and are stepped due to the steeply sloping topography of the area. As a result, the street has a distinctive architectural uniformity and visual 'rhythm' which make a significant contribution to the character and appearance of the area.
8. The appeal proposal would introduce a large opening which would be wholly out of keeping with the modest scale of the host buildings and incongruous in the context of the terrace, where no other such openings are evident. The architectural integrity and continuity of the terrace and the wider street scene would be seriously compromised as a consequence. As such, the proposal would conflict with saved policies BE1 and D2 of the *Kirklees Unitary Development Plan* (2007) ('the UDP') which, amongst other things, require development proposals to be visually attractive and retain an area's character and sense of local identity.
9. In coming to these findings, I have taken into account other similar openings in buildings in the wider area drawn to my attention by the appellants. However, most appear to be in areas of varied streetscape character, in contrast to the appeal site where the distinctive form of stepped terraced housing warrants protection from such alterations. They do not therefore justify the appeal proposal.

Effect on neighbours' living conditions

10. The appeal proposal would introduce parking and manoeuvring of vehicles in an area that is presently free from such activity. The adjacent dwellings to the east of the new car park have very small rear yards. Occupiers of these properties would be subjected to the coming and going of vehicles and pedestrians, including slamming of doors and parking manoeuvres in close proximity to habitable rooms and outside amenity areas. The resultant noise and disturbance would be unacceptable at such close quarters, and especially late at night when most occupiers would be in bed. The provision of boundary fencing and landscaping would not materially reduce these impacts.
11. The proposal would therefore unacceptably harm the living conditions of neighbouring residents, in breach of saved Policy D2 of the UDP which provides for development where it would not prejudice residential amenity.

Other Matters

12. The provision of four off-street parking spaces would relieve parking pressure on Upper Mount Street. However, given the high level of parking demand on both sides of the road, the reduction would be negligible. As such, any resultant benefits in terms of highway safety would be modest and do not

outweigh the harm arising from the impact of the proposal on the street scene and neighbours' living conditions.

13. Although the proposal might improve the visual amenity of the land to the rear of the appeal properties, the area could be improved without resort to its redevelopment for parking.

Conclusion

14. For the reasons set out above, and notwithstanding a local resident's letter of support, I conclude that the proposal is unacceptable and the appeal should fail.

Michael Moffoot

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: 4th April 2018

Appeal Ref: APP/Z4718/W/18/3192851

170-172 Longwood Gate, Longwood, Huddersfield HD3 4XF

- 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 Bottomley against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref: 2017/62/90962/W, dated 17 March 2017, was refused by notice dated 7 July 2017.
 - The development proposed is 'demolition of double garage and erection of detached dwelling (modified proposal)'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal papers 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.

Main Issues

3. The main issues in this case are:
 - (i) the effect of the proposed development on the character and appearance of the area;
 - (ii) the effect of the proposal on the living conditions of neighbouring residents and whether future occupiers of the proposed dwelling would enjoy satisfactory living conditions, with particular reference to privacy, outlook and daylight and sunlight; and
 - (iii) the effect of the proposal on highway safety.

Reasons

Character and appearance

4. Nos 170 and 172 Longwood Gate are mid-terraced, two-storey dwellings of coursed stone construction under stone slate roofs. The steeply sloping appeal site comprises an area of broadly rectangular terraced garden land to the rear of the two properties. The proposal involves demolition of the existing flat-roofed garage on the site and erection of a two-storey, stone-built dwelling

with frontage and access to Edge Terrace. Housing within the vicinity of the site includes tight-knit traditional terraced dwellings on Longwood Gate and more substantial modern properties on elevated land to the north-east accessed via Quarry Court.

5. Whilst it would have a similar footprint the proposed dwelling would be considerably larger than the existing garage, extending over two storeys and incorporating a broad-spanned and bulky pitched roof. As a result the new building would be highly prominent in the street scene, and particularly so from Edge Terrace. It would encroach into an area of largely undeveloped garden land to the rear of this part of Longwood Gate and dominate the adjoining terraced properties due to the elevated nature of the site. The dwelling would be a discordant and intrusive addition that would be at variance with the established pattern of residential development and thus severely harmful to the character and appearance of the area. For these reasons it would not, as the appellant suggests, represent a visual improvement over the existing garage.
6. As such, the proposal would conflict with those parts of saved policies BE1 and BE2 of the *Kirklees Unitary Development Plan* (2007) ('the UDP') which require good quality design that is visually attractive, creates or retains a sense of local identity and is in keeping with surrounding development in terms of scale, layout, height and mass.

Living conditions

7. Saved Policy BE12 of the UDP requires a minimum separation distance of 21m between habitable room windows in new dwellings and those in adjacent dwellings. At some 9m the appeal proposal would fall significantly short of this standard. It would give rise to mutual overlooking at close quarters between windows to ground and first floor habitable rooms in the proposed dwelling and those in Nos 168-174, albeit obliquely in the case of Nos 168 and 174 (evens) and moderated to some extent by boundary fencing. Obscure glazing to the rear lounge and dining room windows in the new dwelling, as suggested by the appellant, would result in an oppressive environment for those using these habitable rooms and is not therefore a satisfactory solution to the privacy concerns.
8. Although the proposed dwelling would be set further back from the terrace than the existing garage it would be a much larger structure. As a result, the outlook from ground and first floor rear windows in Nos 168-174 would be dominated by the building, and it would be an oppressive feature in close proximity to the proposed patio area to be created at the rear of Nos 170 and 172.
9. Given the proximity of the new dwelling to the site boundaries and adjacent terrace, the proposal would also lead to loss of daylight and sunlight in habitable rooms to the rear of Nos 168-174 and their gardens, and this adds weight to my concerns.
10. For these reasons, I conclude that the proposed development would materially harm the living conditions of neighbouring residents and would fail to provide satisfactory living conditions for occupiers of the proposed dwelling, in conflict with policy BE12 of the UDP.

Highway safety

11. At the point of the proposed access Edge Terrace is steep, relatively narrow, has no footways and is on the inside of a gentle bend. At the time of my early afternoon site visit the road was lightly trafficked, although it is no doubt busier during peak periods at the beginning and end of the working day.
12. The proposal does not make provision for turning vehicles within the site and they would therefore have to reverse on to or off the parking area. The appellant submits that satisfactory sight lines can be provided at the access. However, there is no technical evidence before me to show that adequate sight lines (2.4m x 43m) can be achieved to ensure that vehicles entering and leaving the site do not compromise the safety of road users or those undertaking the manoeuvre. Moreover, whilst visibility at the existing access to the site is restricted, no formal measures are in place to seal up the opening. The proposal would therefore increase the potential for vehicular conflict on Edge Terrace.
13. Accordingly, I conclude that the proposal would materially harm highway safety in breach of saved Policy T10 of the UDP which does not normally permit new development which would create or materially add to highway safety problems.

Other Matters

14. Whilst not a matter raised by the Council in its reason for refusal, local residents have concerns regarding the implications of the proposal for the designated 'Urban Greenspace'. Although the designation is carried over in part in the *Kirklees Publication Draft Local Plan* it excludes the existing garage. If I were minded to allow the appeal then I would have sought further information regarding the matter, but as I have found the proposed development to be unacceptable for other reasons this course of action is unnecessary.
15. Whilst a five-year supply of housing land cannot be demonstrated, the harmful effects of this scheme do not warrant the limited contribution of one additional dwelling to the provision of housing in the Borough.

Conclusion

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

Michael Moffoot

Inspector



Appeal Decision

Site visit made on 13 March 2018

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 6 April 2018

Appeal Ref: APP/Z4718/W/17/3186215

688 Bradford Road, Fixby, Huddersfield HD2 2JY

- 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 Shahid Hussain against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/92195/W, dated 22 June 2017, was refused by notice dated 29 September 2017.
 - The development proposed is described as the erection of porch to existing dwelling and erection of detached garage with annexe over.
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Decision

1. The appeal is dismissed insofar as it relates to the erection of a detached garage with annexe accommodation over to create a dwelling forming annex accommodation. The appeal is allowed insofar as it relates to the erection of a porch to existing dwelling at 688 Bradford Road, Fixby, Huddersfield HD2 2JY, in accordance with the terms of the application, Ref 2017/62/92195/W, dated 22 June 2017, and the plans submitted with it, so far as they are relevant to erection of the porch to existing dwelling hereby permitted and 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 only in so far as they relate to the erection of a porch to the existing dwelling only: Drawing Number LP01 - Location Plan; Drawing Number 2017/027/01 – Survey Drawing; Drawing Number 2017/027/04 – Planning Drawing.
 - 3) The materials to be used in the external surfaces of the porch shall match those used in the existing building.

Procedural Matters

2. The Council changed the description of the proposed development from that shown on the application form to 'erection of porch to existing dwelling and erection of detached garage with annexe accommodation over to create a dwelling forming annex accommodation'. This is a more accurate description of the development proposed which I have therefore used in the determination of this appeal.

3. The Council has referred to policies contained within the emerging Kirklees Local Plan which although is in the process of examination, it has yet to be adopted by the Council. Furthermore, I have no knowledge of the extent of any unresolved objections relating to the policies identified. Consequently, the weight that I can attach to the policies contained within the emerging plan is limited and the statutory development plan for the purposes of the determination of this appeal remains as the Kirklees Unitary Development Plan (2007).
4. The Officer Delegated Decision Report states that the erection of the porch to the existing dwelling would be acceptable in terms of design and finds no other harm arising from this part of the proposal. I have no reasons to disagree with the Council's view. Consequently, the appeal is allowed in respect of the erection of a porch to the existing dwelling.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

6. The appeal property comprises a large semi-detached dwelling located on a busy dual carriageway. Surrounding properties are regularly spaced, set relatively uniformly to the road and comprise a mix of large semi-detached and detached properties of varying design styles but having relatively prominent front gables. To the south of the appeal property is a relatively wide open gap in the otherwise built up road frontage which provides access to a farm/commercial property located to the rear of the dwellings on the eastern side of Bradford Road. This gap has the effect of drawing the eye such that the southern gable and side garden of the appeal property is noticeably visible within the street scene and in views from the road travelling north.
7. The proposed development would involve the demolition of an existing detached garage and the construction of a large detached garage with annex accommodation in the roof space above. The proposed garage would be located to the rear of the side garden and set back from the rear façade of the dwelling. In addition, a porch is proposed to be constructed to the side elevation of the property.
8. In having a pitched roof and front gable, the design of the proposed garage building would be consistent with some of predominant design characteristics of the surrounding area. However, the Council indicate that the width of the proposed garage would be 13.55m and it would be 7m in height. As such, in relation to the host dwelling, it would appear as a significant and substantial addition. Furthermore, it would be wider than the existing semi-detached host dwelling. The scale, mass and height of the proposed building and its position in views from the gap between adjacent dwellings would result in it appearing as an unacceptable prominent and dominant addition to the host dwelling.
9. I have taken into account the fact that planning permission was previously granted for a similarly designed garage and annexe accommodation which the appellant suggests was approximately 0.4m lower in height and approximately 3m shorter in width than the building now proposed. Some of the visual elements of the previously granted building would be similar to that of the

proposed building in this appeal. However, the scale, mass and height of the building now proposed would be unacceptable both in relation to the plot size and to the scale and mass of the existing dwelling.

10. Furthermore, the proposal garage building would occupy a prominent position within the existing gap and would appear as a substantial, incongruous and noticeable addition within the street scene that would fail to respect the scale, mass and subservient nature of other ancillary additions to nearby properties. Consequently, the proposed building would cause significant harm to the character and appearance of the surrounding area.
11. The proposed porch would appear as a small subservient addition to the existing dwelling which would be of a design and constructed of materials that would match the existing dwelling. Consequently, I agree with the Council that this part of the proposed development would be acceptable.
12. Taking the above factors into account, the proposed detached garage with annexe accommodation over would appear as an incongruous and prominent addition to the property that would cause unacceptable harm to the character and appearance of the surrounding area. As such, it would conflict with Saved Policies D2 (vi and vii), BE1 (ii) and BE 2 (i) of the Kirklees Unitary Development Plan (2007). These policies, amongst other things, require that development should not prejudice the character of the surroundings, is visually attractive and respects the design, scale, building height and mass of surrounding development.

Other matters

13. I have taken into account the personal circumstances of the appellant and the desire for additional family accommodation to be provided to enable elderly parents to reside in the existing dwelling house. Whilst I have some sympathy with the appellant in this regard, these circumstances do not outweigh the harm that would be caused to the character and appearance of the surrounding area as a consequence of the proposed development.

Conditions

14. In addition to the standard time limit condition, I consider it necessary to impose a condition requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty. In order to protect the character and appearance of the area, I have also imposed a condition concerning the external materials to be used.

Conclusion

15. 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 appeal should be allowed insofar as it relates to the erection of a porch to existing dwelling and dismissed insofar as it relates to the erection of a detached garage with annexe accommodation over to create a dwelling forming annex accommodation.

Stephen Normington

INSPECTOR



Appeal Decision

Site visit made on 9 April 2018

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st May 2018

Appeal Ref: APP/Z4718/D/18/3197229

33 Wilshaw Road, Meltham, Holmfirth HD9 4DZ

- 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 Smith against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/93405/W, dated 3 October 2017, was refused by notice dated 24 January 2018.
 - The development proposed is demolition of garage and erection of two storey and single storey rear extension with first floor balcony and attached lower ground garage with terrace over.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The appeal site is located within the Green Belt and Wilshaw Conservation Area. I take as my starting point the proposal's Green Belt location and the relevant policy context set out in the *National Planning Policy Framework* (the Framework). It is necessary firstly to establish whether it represents inappropriate development in the Green Belt, and then to consider its effect on the openness of the Green Belt, before going on to consider its effects on the conservation area. In dealing with the effect on the conservation area, I have had regard to the special duty placed on decision makers in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
3. The main issues in the appeal are:
 - Whether or not the proposal would be inappropriate development in the Green Belt for the purposes of the development plan and the Framework;
 - The effect of the proposal on the openness of the Green Belt;
 - whether or not the proposal would preserve or enhance the character or appearance of Wilshaw Conservation Area and the host property; and
 - If the proposal would be inappropriate development, 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 it.

Reasons

Whether inappropriate development

4. Paragraphs 89 and 90 of the Framework set out the forms of development which are not inappropriate within the Green Belt. These include extensions or alterations of a building provided that it does not result in disproportionate additions over and above the size of the original building. The Framework does not give any definition of what constitutes a 'disproportionate addition' but Policy D11 of the *Kirklees Unitary Development Plan (adopted March 1999 and revised September 2007)* (UDP) indicates that in the Green Belt the size of the extension in relation to the existing building should be such that the existing dwelling remains the dominant element. In the Council's Officer's Report they indicate that for this to be the case the extension should be no more than about one third of the volume of the host property.
5. Permission¹ was granted in August 2017 for the demolition of the garage and the erection of a two storey and single storey rear extension with first floor balcony and detached garage. The two storey and single extension proposed in the appeal scheme are the same as those previously approved, but it is now proposed to also create an attached garage and garden store room at lower ground level with a terrace above them serving the ground floor of the dwelling.
6. The Council have given figures that indicate the volume of the proposal would be around 90% of the volume of the original house, whereas the appellant has used floor space figures and calculated that the appeal scheme would result in a 62% increase in floor space. The appellant's figures take into account the fact that the detached garage that was part of the recently approved scheme would not be constructed, and a Unilateral Undertaking has been provided to ensure this. However, the Council have highlighted that as the volume of the detached garage was around 78 m³, it is significantly smaller than the appeal proposal.
7. However, even if the previously approved detached garage is not constructed on the site, the appeal scheme would represent a further substantial extension to the rear of the dwelling, with the overall depth of the total extension being significantly greater than the depth of the original house. Whichever calculation is adopted, the appeal scheme would result in a very large increase in the size of the house. I take the view that an increase in the floor area and volume of the original dwelling of the scale proposed cannot be considered to be anything other than disproportionate.
8. The appellant has suggested that the additional extension proposed in the appeal scheme, over and above the permitted scheme would only be modest and would not be disproportionate. It was clear at my site visit that the construction of the permitted scheme is substantially complete, and will be occupied in due course. Nevertheless, the appeal decision must focus on the comparison between the appeal scheme and the original dwelling, not the permitted scheme.
9. In the light of the above, I therefore conclude that the proposal would be inappropriate development, which according to paragraph 87 of the Framework

¹ Application Reference 2017/62/92124/W

is, by definition, harmful to the Green Belt, and should only be approved in very special circumstances.

Openness

10. Openness is an essential characteristic of Green Belts. It can be considered as the absence of buildings or development. As a result of the proposal, the size and mass of built development on the site would be increased, and so the openness of the Green Belt would be reduced. Overall, whilst in isolation the loss of openness would be minimal, there is a degree of harm arising from this, in addition to the inappropriate nature of the development.
11. The appellant has suggested that when ground levels are reinstated and the area landscaped, there would be limited visibility of the proposal. Nevertheless, significant regrading of the surrounding land would be required to provide external access to the garage and garden store room. Due to the height of the boundary wall to Gill Birks immediately to the west of the site, the extension would be visible from this track, which provides access to a small number of houses, as well as being a public footpath. In any case, a lack of visibility does not, in itself, mean there is no loss of openness.

Character and Appearance of Wilshaw Conservation Area

12. The *Wilshaw Conservation Area Appraisal* (CAA) indicates that Wilshaw is a rural village where the majority of the properties date from the mid-Victorian period, and some of which were built as a result of a local philanthropist. Although not listed, or identified as a building of merit within the CAA, the property forms one of a number of detached houses along the main road through the village. The house, which the appellant has stated dates from the early twentieth century, is typical of vernacular architecture of its time and the detailing it exhibits means it contributes to the character and appearance of the conservation area.
13. Notwithstanding the fact that the extension would be built from materials to match the main dwelling, the size and scale of the overall extension now proposed would mean that it would dominate the original house. Whilst its location to the rear of the host property would limit the visibility of the proposed extension when travelling along the road in either direction, as noted above, the extension would be visible from Gill Birks. As such, the proposal would not only be an unsympathetic addition to the host property, but it would be detrimental to the character of the wider area. The impact of the extension would not be diminished in these views, even though the host property forms one of number of dwellings along Wilshaw Road.
14. The additional extension proposed would be below the original ground level, and so would potentially be less visible than the detached garage approved in the previous scheme. However, not only is it considerably larger than the approved garage, but as it is attached to the host property, rather than being a detached outbuilding, it would add a mass and bulk to the house that the previous garage would not.
15. As a result, I consider that the proposed development would fail to preserve the character and appearance of Wilshaw Conservation Area. Therefore, it would conflict with Policy BE5 of the UDP which requires that developments within a conservation area should preserve or enhance the character and

appearance of the area. It would also be contrary to Policies BE1(i), BE2 (ii), BE14 (ii) of the UDP which seek to ensure that developments create or retain a sense of local identity, take account of the topography of the site, and do not extend more than 3m from the rear elevation. Having regard to paragraph 134 of the Framework, whilst the harm caused to the conservation area would be less than substantial, there are no public benefits which would outweigh the harm caused.

Other Considerations

16. The appellant has stated that due to adverse ground conditions the approved scheme has required the construction of a 2m wall below the original ground level. In addition, it is stated that the permission requires ground levels at the rear of the property to be raised which requires a 1.2m stone wall to be constructed above the ground which would be backfilled, paved or decked. It is suggested that the proposal would utilise these structural requirements to create additional floor space below the ground level.
17. However, the Council have stated that the existing permission does not permit any engineering operations within the rear garden which require a significant change in land levels, and so a separate permission would be required for any such works.
18. Whilst I note the difficulties encountered with the construction process to date, ultimately structural work needed underground would not be visible, and would not create additional floor space. Therefore, it would not have the same impact on the Green Belt. As such, it does not justify a scheme that would be visible from both the side and rear of the property and would significantly increase the floor space of the host property.
19. The existing property has a drive to the eastern side of the site. This would provide the access to the approved detached garage. However, it is indicated that the width of the drive is not sufficient to allow the turning of vehicles, so it is not possible to enter and exit the site in forward gear. The proposed garage would be accessed from Gill Birks and there would be sufficient space to the front of the garage to enable vehicles to turn. The appellant has argued that this represents an improvement to highway safety.
20. Be that as it may, there is no indication that visibility from the existing drive is substandard, that the road has a poor accident record, or that the use of the drive is causing highway safety issues. Thus, whilst the proposed access may be easier and more convenient to use, I am not persuaded that the new access is required for highway safety, although I accept that being able to enter and exit the site in forward gear would be a benefit.

Conclusion

21. To conclude, the appeal proposal would be inappropriate development in the Green Belt, which would, by definition, be harmful to the Green Belt. It would also cause harm to the openness of the Green Belt. The Framework requires that substantial weight is given to any harm to the Green Belt. In addition, the scheme would fail to preserve the character and appearance of the conservation area. Section 72(1) of the Act indicates that the desirability of preserving or enhancing the character or appearance of a conservation area is a matter of considerable importance and weight.

22. Despite having regard to all the other considerations put before me, I consider that taken together, the factors cited in its favour do not clearly outweigh the harm the scheme would cause. Consequently, very special circumstances do not exist, and the proposal would conflict with the Framework and Policy D11 of the UDP.
23. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

Alison Partington

INSPECTOR

Appeal Decision

Site visit made on 13 March 2018

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2018

Appeal Ref: APP/Z4718/D/17/3192344

44 High Street, Paddock, Huddersfield HD1 4SJ

- 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 Naveed Azhar against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/92739/W, dated 6 August 2017, was refused by notice dated 27 October 2017.
 - The development proposed is a double storey extension to create open living and dining area on ground floor and additional bedroom on the first floor.
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Decision

1. The appeal is dismissed.

Procedural matter

2. There is a discrepancy between the submitted 'existing elevations' and 'proposed elevations' drawings with regard to the labelling of the front and rear elevations. From my site visit I observed that the 'existing elevations' drawing appears to be correct in this respect. On the 'proposed elevations' drawing the front elevation is incorrectly labelled as the rear and vice versa. For the avoidance of doubt, I have considered the development on the basis of the labelling on the 'existing elevations' drawing, and any reference to the respective elevations below should be interpreted accordingly.

Main Issues

3. The main issues are the effect of the proposed extension on: (i) the character and appearance of the host property and the surrounding area; and (ii) the living conditions of the occupants of 42 High Street with regard to outlook.

Reasons

Character and appearance

4. The site is the end property in one of 3 terraces of 2 storey houses which form a small square around a central area of open space and trees. The terraces on either side of the square, including the appeal property, front onto the open space and have small front gardens enclosed by low fences or boundary hedges. This small square has an open, pleasant feel and provides a sense of space within an area of relatively high density terraced housing.

5. Due to its height and projection, the proposed extension would dominate the front elevation of the property and occupy most of its small front garden. Although proposed in matching materials, the extension would have a shallower roof than the existing property, and no windows to its front elevation. As a result, the extension would have a discordant and overbearing presence in relation to the existing house, and appear dominant and incongruous on a terrace which is characterised by a strong and regular pattern of fenestration to its front elevation, and which has no other front extensions.
6. As a result of its height, scale and projection, the extension would also erode the sense of openness which characterises this small square of properties, creating a sense of enclosure and obstructing wider public views into and out of this area, to the significant detriment of its character and appearance.
7. I therefore conclude that the extension would detract significantly from the character and appearance of the host property and the surrounding area, and thus conflict with policies D2 (vi), BE1 (i and ii), BE2 (i) and BE14 (i) of the Kirklees Unitary Development Plan (the UDP). These require, amongst other things, that new developments respect the design features of existing buildings and the character and appearance of their surroundings. The development is also contrary to chapter 7 of the National Planning Policy Framework (the Framework) and a core principle in paragraph 17, which require high quality design.
8. In reaching my conclusion I have also had regard to emerging policy PLP24 (a and c) of the publication draft Local Plan, the aims of which are similar to those of the UDP policies referred to above, in requiring developments to be sympathetic to the character and appearance of their surroundings.

Living conditions

9. The extension would project some distance from the front of the existing building at a height of 2 storeys. Although it would be set in slightly from the boundary with No. 42, it would introduce a high and lengthy expanse of wall in very close proximity to the front windows of this adjoining property, which are close to the site boundary. It would also run alongside almost the full extent of No. 42's small front garden area.
10. As a result of its height, projection and proximity, the extension would appear dominant and overbearing from the windows and front garden area of No. 42. The development would therefore have a significant detrimental effect on the living conditions of the occupiers of No. 42 with regard to outlook, in conflict with policies D2 (v) and BE14 of the UDP, which seek to protect the living conditions of future and neighbouring occupiers. The development would also be contrary to one of the core principles in paragraph 17 of the Framework, which seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.
11. In reaching my decision I have also had regard to emerging policy PLP24 (b) of the publication draft Local Plan, which has similar aims to those in the UDP policies referred to above, in seeking to provide a high standard of amenity for future and neighbouring occupiers.

Other matters

12. Whilst I note the appellant's disappointment at the way in which the application was alleged to have been handled by the Council and the time taken for a decision to be made, this does not alter my findings on the appeal, which I have considered and determined on its planning merits.

Conclusion

13. For the reasons given above I conclude that the appeal should be dismissed.

Jillian Rann

INSPECTOR

Appeal Decision

Site visit made on 10 April 2018

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 25th April 2018

Appeal Ref: APP/Z4718/D/18/3194932

1 Cawthorne Avenue, Fartown, Huddersfield, HD2 2QJ

- 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 Mohammed Javid against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/92406/W, dated 11 July 2017, was refused by notice dated 8 December 2017.
 - The development proposed is erection of boundary wall.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The development has already been constructed and the appeal is therefore retrospective in nature.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area.

Reasons

4. The appeal property is a detached house on the corner of Cawthorne Avenue and Richmond Avenue. It is positioned on sloping ground and the property is above the height of the road.
5. A series of images have been submitted that show the previous boundary wall to the property. That wall followed the contours of the plot and was significantly lower at the junction. In contrast, the appeal development has created a raised platform with a high boundary wall fronting the street. The walling is positioned at the back edge of the pavement and is prominent in views along Richmond Avenue and Cawthorne Avenue. Whilst the submitted plans state that it is 3.2 metres in height at the corner, that measurement excludes the brick piers and proposed railings above. The total height is therefore significantly taller. This creates an imposing, overbearing structure that is out of scale with its surroundings. Whilst there is some variation in the character of the area, that does not provide a justification for a boundary wall of this size. In this regard, it is significantly higher than any neighbouring boundary treatment. Whilst the appellant states that planning permission has

been granted for similar boundary walls in the area, no specific examples have been brought to my attention. I also did not see any comparable boundary walls during my site visit.

6. The appellant states that the development provides a safe environment for their children to play in. However, it is unclear whether other, less harmful, solutions have been explored that could also accommodate the appellant's requirements. This reduces the weight I can attach to this consideration.
7. For the above reasons, I conclude that the development significantly harms the character and appearance of the area. It is therefore contrary to saved Policies D2, BE1, and BE2 of the Kirklees Unitary Development Plan (2007). These policies seek to ensure, amongst other things, that new development is visually attractive and in keeping with the character of its surroundings. It would also be at odds with the National Planning Policy Framework which requires good design.
8. The Council's Decision Notice also refers to emerging Policy PLP24 of the Kirklees Publication Draft Local Plan. However, it is not clear to what extent that policy is subject to unresolved objections, or whether the examining Inspector has raised any concerns regarding its content. In these circumstances, and based on the information before me, I attach only limited weight to emerging Policy PLP24 at this stage.

Other Matters

9. The development does not result in any significant overlooking or loss of privacy to neighbouring properties. It is also constructed in appropriate materials. However, these are ordinary requirements for new development, and do not represent a positive benefit.
10. A number of objections were made to the development by local residents. It is therefore not the case that the proposal is uncontentious.

Conclusion

11. For the reasons given above I conclude that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR