
Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 20-Sep-2018

Subject: Planning Application 2018/90827 Erection of detached dwelling adj 14, The Fairway, Fixby, Huddersfield, HD2 2HU

APPLICANT

S Iqbal

DATE VALID

13-Mar-2018

TARGET DATE

08-May-2018

EXTENSION EXPIRY DATE

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Ashbrow

No

Ward Members consulted

RECOMMENDATION: REFUSE

The proposed dwelling by virtue of its constrained plot size and layout would fail to respect the predominant character of development within the area which consists of dwellings within spacious plots. It would appear cramped in the context of the low density nature of the wider estate and which would be out of keeping with its surroundings. This would be contrary to Policies D2 (vi) (vii), BE1 (i) (ii) and BE2 (i) of the Unitary Development Plan, Policy PLP24 (a) of the Publication Draft Local Plan and advice within paragraph 130 of the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.1 The application has been brought back to Sub-Committee following the resolution to defer it at the meeting of 17th May 2018. The reason for deferral was to allow the applicants an opportunity to consider a redesign of the proposed dwelling that would be in keeping with the surrounding area.
- 1.2 Since this time amended plans have been received. This report is based on the consideration of the amended scheme.
- 1.3 A site visit was undertaken prior to the application being considered at the meeting on 17th May 2018.
- 1.4 The application was originally brought to Sub-Committee at the request of Ward Cllr Jean Calvert. The original scheme was recommended for refusal for the following reason.

“The proposed dwelling by virtue of its constrained plot size, layout, scale and design would fail to respect the predominant character of development in the area which consists of dwellings within spacious plots. It would appear cramped in the context of the low density nature of the wider estate and an uncharacteristic form of development which would be out of keeping with its surroundings. This would be contrary to Policies D2 (vi) (vii), BE1 (i) (ii) and BE2 (i) of the Unitary Development Plan, Policy PLP24 of the Publication Draft Local Plan and advice within paragraph 64 of the National Planning Policy Framework.”

- 1.5 It is noted that since Members considered the previous plans, the National Planning Policy Framework has been updated (July 2018).

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site originally comprised part of the wider curtilage of No. 14 The Fairway, which is an extended, detached bungalow. This is now separated from No. 14 by a stone wall/fence running along the western boundary.
- 2.2 The application site itself forms a narrow plot, sloping downwards from north (front) to south (rear) and from west to east with a woodland area beyond the eastern and southern boundaries. There is a flat roof garage structure on site which was originally associated with No, 14.
- 2.3 The surrounding area is comprised predominantly of detached residential properties set in spacious plots. No. 14 to the west is set within a large plot and faced in random stone. Slightly beyond the eastern boundary is a Public Right of Way (HUD/171/10).
- 2.4 Opposite the site is No. 21 The Fairway which is a Grade II listed building a mid 19th Century hammer-dressed stone dwelling with a stone slate roof. This is set on rising land off-set from the siting of the proposed dwelling.

3.0 PROPOSAL:

- 3.1 Permission is sought for the erection of a detached dwelling. This would require the demolition of the existing garage on site to accommodate the dwelling.
- 3.2 Following the deferral at Sub-Committee, amended plans have been received which demonstrate a re-design of the property to reduce the overall height of the building from 2-3 storeys to 1-2 storeys.
- 3.3 The proposed footprint of the building has been increased.
- 3.4 The proposed dwelling would be located to the east of No. 14 in a similar position to the original plans. The dwelling would allow an approximate 5.5 metre separation between the dwellings with the front elevation of the dwelling on a similar building line to No. 14 with the rear elevation set slightly in from the rear of No. 14.
- 3.5 The property would be set in from the eastern boundary woodland by approximately 5 metres. The footprint would be larger than original plans and would be 8.3 metres in width and 15 metres in length (previously 8 metres and 13.5 metres respectively) with the front and rear corners of the building infilled.
- 3.6 The maximum eaves height would be 5 metres (previously 6.5 metres) with the maximum height to ridge being 7.3 metres (previously 8.7 metres).
- 3.7 The proposed construction materials would be natural stone for the walls and grey concrete tiles for the roof.
- 3.8 The resultant accommodation would be a garden room and bedroom with en-suite at lower ground floor level and a kitchen, lounge, WC, and 2 no. en-suite bedrooms at ground floor.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 Planning history:

This relates to the current application site and the history of No. 14 to the west, as the land subject to this application originally formed part of the curtilage to that property.

2006/94329 Erection of extensions to existing bungalow to form 2 storey dwelling, detached double garage and new vehicular access (no. 14)
Conditional Full Permission

2007/92102 Part demolition of existing bungalow and erection of two storey dwelling and detached garage (No. 14)
Refused – 1) insufficient information regarding bats; 2) aspects of dwellings fail to provide accuracy

2007/94140 Demolition of existing bungalow and erection of two storey dwelling with basement and erection of detached garage/workshop
Refused – size, siting, design, materials and massing would appear overbearing and incongruous detrimental to both visual and residential amenity – appeal dismissed

2012/93440 Demolition of existing bungalow and erection of 2 detached dwellings
Conditional Full Permission

2013/92801 Erection of extensions and alterations with part demolition to form 2 storey dwelling
Withdrawn

2014/93194 Demolition of existing garage and erection of extensions (No. 14)
Conditional Full Permission

2015/93421 Erection of detached dwelling
Refused – layout, scale and design would fail to respect predominant character of the area and detract from the setting of the existing dwelling – also would result in a cramped form of development out of character with low density nature or wider estate and an incongruous and over-prominent appearance out of keeping with existing dwelling and streetscene

2016/92674 Erection of one detached dwelling (same application site and proposal prior to the submission of the amended plans under consideration)
Refused – layout, scale and design would fail to respect the predominant character of the area and detract from the setting of the existing dwelling – development would be out of character with low density nature of the wider estate and have an overall appearance which is out of keeping with the existing dwelling and street scene

4.2 Enforcement history:

COMP/12/0149 Alleged untidy garden – breach not expedient

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

- 5.1 Prior to the submission of amended plans, the application was the resubmission of a previously refused scheme under application number 2016/92674. At that time, it was considered that no amendments could be sought that would overcome the previous reason for refusal so no negotiations took place.
- 5.2 This application was deferred from the Sub-Committee meeting on 17th May 2018 for the applicants to consider redesigning the proposed dwelling.
- 5.3 The applicant/Agent have not discussed the amendments to the scheme prior to their submission and therefore no negotiations have taken place. An email in support of the application from a representative of the applicant states: "Though there was no commitment on the part of members of the Sub-committee, there was an indication that a bungalow might be acceptable.

The drawings now show a bungalow to the front but of course with a lower ground floor to the rear because of the sloping nature of the site.

I consider that the relationship to No.14 is satisfactory, and that the site's appearance will be far better than at present with the flat-roofed garage".

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework (2018). In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

D2 – Unallocated Land
BE1 – Design principles
BE2 – Quality of design
BE12 – Space about buildings
T10 – Highway safety
T19 – Parking standards
NE9 – Retention of mature trees
R13 – Public Rights of Way

6.3 Kirklees Publication Draft Local Plan:

PLP1 – Achieving sustainable development
PLP2 – Place shaping
PLP21 – Highway safety and access
PLP23 – Core walking and cycling network
PLP24 – Design
PLP33 – Trees
PLP35 – Historic environment

6.4 National Planning Guidance:

Chapter 5 – Delivering a sufficient supply of homes
Chapter 12 – Achieving well-designed places
Chapter 15 – Conserving and enhancing the natural environment
Chapter 16 – Conserving and enhancing the historic environment

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 The original plans considered by sub-committee were publicised by site notice and letters to neighbouring properties. As a result 4 letters of representation were received objecting to the scheme with the following being a summary of comments:

Highway safety

- Already congested, close to a school
- Would increase risk of accidents
- Garage provision required as currently parking on bend/pavement
- Boundary of Public Rights of Way should be marked clearly

Visual amenity

- Loss of views to woodland
- No two houses as close to each other as proposed
- Out of character and squeezed into existing garden
- All other properties on that side of The Fairway are bungalows
- All bungalows are long buildings and garden frontages
- Due to sloping land 2/3 storey building will stand out and dominate the top of the bank
- Materials not in keeping

7.2 The revised plans have been publicised by site notice and letters. The period of publicity expires on 20th September, the same day as sub-committee. At the time of writing 1 letter of representation has been received objecting to the scheme. Any further representations will be reported to the meeting in the update or verbally on the day of the meeting. The summary of comments received to date is set out below:

- Obvious that a house cannot be constructed in place of the garage
- More cars parked on the pavement on the bend is a road safety issue
- Consider that a new house would be 'squeezed' into the site
- For these reasons original objections to the development remain.

8.0 CONSULTATION RESPONSES:

8.1 Non-statutory:

K.C. Highways Development Management – previous comments apply – no objection subject to conditions

K.C. Trees – previous comments still apply – no concerns

K.C. Public Rights of Way – previous comments still apply – of consent is granted, a footnote is required relating to no interference, obstruction, prior to, during or after development works

K.C. Ecology & Biodiversity Officer – informal comments – previous comments still apply – no objection subject to mitigation measures

9.0 MAIN ISSUES

- Principle of development
- Visual amenity
- Setting of a listed building
- Residential amenity
- Highway safety
- Other matters
- Representations

10.0 APPRAISAL

Principle of development

- 10.1 The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) on the UDP states “planning permission for the development.....of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”. All these considerations are addressed later in this assessment.
- 10.2 The Council is currently unable to demonstrate a 5 year supply of deliverable housing land sufficient to satisfy the requirement of the NPPF (2018). Paragraph 73 states that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing need where the strategic policies are more than five years old.
- 10.3 This particular application was submitted following the refusal of planning permission under application number 2016/92674 which was also for the erection of one dwelling and had the following reason for refusal:
1. *The proposal by virtue of its layout, scale and design would fail to respect the predominant character of the area and detract from the setting of the existing dwelling. In particular the proposal would result in a development that is out of character with the low density nature of the wider estate and have an overall appearance which is out keeping with the existing dwelling*

and the street scene. This would be contrary to Policies D2 (vi) (vii), BE1 (i) (ii) and BE2 (i) of the Unitary Development Plan and advice within paragraph 64 of the National Planning Policy Framework.

- 10.4 This application was originally submitted with the same plans as previously refused with a Design and Access Statement detailing the reasons why the application/Agent considered the refusal to be unjustified.
- 10.5 Following the committee resolution to defer the application, amended plans have now been received which seek to overcome the previous recommendation to refuse the application.

Impact on visual amenity:

- 10.6 The Fairway is characterised by a variety of differently styled detached properties set within generous plot sizes and set back from the roadside with the row of properties to the south-west of the road within the vicinity of the site being detached bungalows.
- 10.7 The proposed development would result in two dwellings sitting within the original curtilage of No. 14 one being the existing, extended bungalow and one being the proposed new split level, single storey dwelling which would be two storeys to the rear elevation.
- 10.8 The street scene elevation submitted demonstrates that the roofline of the proposed dwelling has been amended to be 1.5 metres lower than the original submission. This in turn reduces the impact of the dwelling as it would not compete (in terms of height) with the host dwelling to the extent of the previous proposal. However, the footprint is now larger as the dwelling is on a simple rectangular base rather than the narrower form of the previous proposal. This is by way of infilling the front and rear sections of the dwelling where it was previously proposed that there would be the entrance to the property, set back from the front elevation and set in from the rear elevation.
- 10.9 The dwelling would now largely replicate the front and rear 'building line' of no. 14. The ensuing mass of building would have the same effect as previous proposals on the site. It would reduce the original curtilage of the adjacent bungalow, which itself has been extended, and by separating the site for a further dwelling would be out of keeping with the established character of the area resulting in a cramped form of development.
- 10.10 Whilst the amendment to the proposal to introduce a dwelling which has been reduced by one storey is considered to be more in keeping with No. 14, it is considered that the design has not overcome the fundamental concerns raised regarding the constraints of the site and topography of the site.
- 10.11 The submitted site plan indicates the trees which have been removed from the site which the Council's Arboricultural Officer is aware of. As such, further details of the proposed boundary treatments would be required via an appropriate condition, should the application be approved.

10.12 In conclusion, with regards to visual amenity, the proposal, by virtue of its layout and constrained plot size would fail to respect the predominant character of the area which consists of dwellings within spacious plots would appear cramped in the context of the low density nature of the wider estate which would be out of keeping with its surroundings. The amended plans have not overcome the previous objections raised. This would be contrary to Policies D2, BE1 and BE2 of the Unitary Development Plan, Policy PLP24 of the Publication Draft Local Plan and advice within Chapter 12 of the National Planning Policy Framework.

Impact on the Listed Building:

10.13 The proposal would be located within the setting of a Grade II Listed Building. When making decision on planning applications for development that affects the setting of a listed building there is a duty for local planning authorities under S66 of the Listed Buildings and Conservation Areas Act 1990 to have special regard to the desirability of preserving this setting. In this context, preservation means not harming the interests of the building as opposed to keeping it unchanged.

10.14 Chapter 16 of the National Planning Policy Framework states that in determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets. The listed building is already characterised as being within an established setting of a more recent estate.

10.15 Furthermore, emerging Policy PLP35 of the Publication Draft Local Plan states that development proposals affecting a designated heritage asset should conserve those elements which contribute to its significance and that harm to such elements will be permitted only where this is outweighed by the public benefits of the proposal.

10.16 The position of the Listed Building within large grounds on rising land ensures that it retains a level of dominance within the estate. Whilst the increase in density on the application site would have some limited impact on the setting of the listed building; (the overall harm on the wider street scene having been assessed above), the impact would cause less than significant harm. On this point alone the public benefit of providing an additional dwelling would outweigh the harm to the setting of the dwelling therefore complying with Chapter 16 of the National Planning Policy Framework.

Impact on residential amenity:

10.17 Policy BE12 of the Unitary Development Plan sets out the normally recommended minimum distances between habitable and non-habitable room windows for new dwellings. New dwellings should be design to provide privacy and open space for their occupants and physical separation from property and land. There are four sections to Policy BE12 in terms of separation distances and the proposal will be assessed against this criteria.

- 10.18 It is recommended that 21 metres is achieved between a habitable room window of a dwelling and a habitable room of a facing dwelling. There are habitable room windows proposed within the front elevation at ground floor level and within the rear elevation at ground floor and lower ground floor level. In terms of the front elevation openings these would have a greater separation distance than 21 metres to the facing dwelling, No. 23 The Fairway.
- 10.19 The non-habitable room facing No. 14 would be separated by 5.5 metres and would be an opening to an en-suite at ground floor. This could be conditioned to be obscurely glazed to prevent overlooking at close proximity.
- 10.20 There are 3 no. openings within the side elevation of No. 14 which have not been inserted as per the approved planning application to extend the property. It is noted however, that as the property is single storey these openings could be altered without the requirement of Planning Permission now that it is occupied.
- 10.21 It is not known whether the arrangements for internal accommodation at No. 14 are as previously approved, given the changes to window arrangements. Nevertheless, as part of the previous 2016 application for a dwelling a plan was submitted demonstrating a 1.8 metre high boundary treatment be sited along the shared boundary. Whilst this was considered to mitigate the concerns regarding potential overlooking, this was a balanced consideration weighing up the potential harm. The boundary treatment would potentially block light to the occupants of No. 14 rather than the future occupiers of the neighbouring new dwelling. At that time, it was considered that there would not be a justifiable reason for refusal based on harm to residential amenity. This is still considered to be the case as the principal windows to No. 14 are to the front and rear of the dwelling. Furthermore, the boundary treatment between No. 14 and the application site had been part erected at the time this application was submitted.
- 10.22 The openings within the rear elevation of the dwelling would be separated from the closest dwelling by an area of woodland and therefore there are no concerns. With regard to the side elevation facing No. 2 Viewlands the windows would be to the staircase, en-suite and kitchen and therefore non-habitable with a separation distance with an approximate separation distance of 25 metres with No. 2 set on a lower ground level than the application site and a Public Rights of Way separating the plots.
- 10.23 As such, in terms of the requirements of Policy BE12, the proposal would be generally acceptable, subject to appropriate boundary screening.
- 10.24 With regards to overshadowing and/or being overbearing the dwelling would have an overall height which is lower than no. 14. It is not considered that there would be an unreasonable degree of overshadowing to no. 14 and due to its massing would not be particularly overbearing. Whilst the proposed dwelling would be set on a much higher ground level than the adjacent property No. 2 Viewlands the separation distance is considered acceptable for the proposal not be overly oppressive, therefore acceptable in terms of Policies D2, BE1 and BE2, Policy PLP24 of the Publication Draft Local Plan and advice within the National Planning Policy Framework.

Impact on highway safety:

- 10.25 Two off-street parking spaces are proposed from a new 4.5 metres wide drive. This is considered acceptable for a three bedroomed property and Highways DM raise no objections to the scheme. Should the application be approved it is requested that conditions are attached to the decision notice with regards to the surfacing and draining of the parking areas and also nothing to be planted or erected within a strip of land 2.0m deep measured from the carriageway.
- 10.26 Whilst noting that comments have been received with regards to parking outside the property on the bend, there are no on-street parking restrictions outside the property and therefore, this is not a matter that the Local Planning Authority can control or address.
- 10.27 Public Rights of Way – the route of public footpath Hud/471/10 runs to the east of the site beyond the woodland swathe. The erection of a dwelling would not adversely affect the setting of the footpath or its users.

Other matters:

- 10.28 The site was formally part of a former garden with a longstanding garage in situ. Given this it is unlikely to be of biodiversity interest. The Ecology & Biodiversity Officer was formally consulted as part of a previous application and following informal discussions it is considered that the comments provided at that time are relevant to this application. Should the application be approved, it is requested that mitigation measures should be used on the building in terms of a bat box and also a woodcrete sparrow terrace nest box. This would accord with Policy PLP30 of the Publication Draft Local Plan.
- 10.29 Air Quality. To encourage the use of low-emission modes of transport, if the application was to be approved, an electric/hybrid vehicle charging point would need to be provided in accordance with relevant guidance on air quality mitigation, draft policies PLP21, PLP24 and PLP51 of the emerging Local Plan, the West Yorkshire Low Emissions Strategy (and its technical planning guidance), the NPPF, and Planning Practice Guidance.

Representations:

- 10.32 Following the re-advertisement of the amended plans, 1 letter of representation has been received to date with the following comments and Local Planning Authority response:

- Obvious that a house cannot be constructed in place of the garage
Response: The impact on amenity has been assessed within the 'Impact on visual amenity section of this report.
- More cars parked on the pavement on the bend is a road safety issue
Response: The impact on highway safety has been addressed within this report
- Consider that a new house would be 'squeezed' into the site
Response: The impact on amenity has been assessed within the 'Impact on visual amenity section of this report.

The original representations made have been considered in the visual amenity and highway safety section of this report.

11.0 CONCLUSION

11.1 The National Planning Policy Framework has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations.

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f90827>

Certificate of Ownership – Certificate A signed