



Appeal Decision

Site visit made on 29 April 2019

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 May 2019

Appeal Ref: APP/Z4718/D/19/3221297

4 Meadow Lane, Slaithwaite, Huddersfield HD7 5EX

- 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 Adam Rout against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/62/92598/W, dated 26 July 2018, was refused by notice dated 12 November 2018.
 - The development proposed is a two storey side extension.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the application was refused, the Kirklees Local Plan (the Local Plan) has been adopted, on 27 February 2019. The policies referred to in the Council's reasons for refusal as being from 'the publication draft Local Plan' are therefore now adopted. The Council has confirmed that the Kirklees Unitary Development Plan (the UDP) has been superseded, and that any UDP policies referred to in the reasons for refusal should therefore be disregarded. I have considered the appeal accordingly, and have given both main parties the opportunity to comment on this matter.
3. In reaching my decision I have also had regard to the revised updated National Planning Policy Framework, 19 February 2019 (the Framework). The revisions to the Framework do not materially alter the national policy approach in respect of the particular issues raised in this appeal compared with the previous version, published 24 July 2018, which both parties have previously considered. References throughout this decision are to the 2019 Framework.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the appeal site and its surroundings;
 - the living conditions of the occupants of 6 Meadow Lane with regard to outlook and light.

Reasons

Character and appearance

5. The appeal relates to a two storey, semi-detached stone house of relatively recent construction, which is part of a development of similar residential properties. The appeal property is part of a courtyard of two storey and four storey houses at the entrance to that development, close to the junction of Meadow Lane and Meal Hill Lane. Notwithstanding some differences in their height, those neighbouring properties and others further along Meadow Lane are relatively consistent in their appearance, with compact, rectangular footprints, simple, symmetrical pitched roofs and small, projecting gable features to their front elevations. Whilst differing in other aspects of their appearance, other older houses in the vicinity of the site also share the same regular footprints and simple, symmetrical pitched roof forms as the appeal site and its immediate neighbours.
6. In contrast, the proposed extension would have an irregularly-shaped footprint, widening from front to rear, and would be made up of different components with differing widths and roof forms. Whilst the two storey section would have a gable to the rear, its roof would be somewhat complex in form compared to neighbouring dwellings, made up of numerous different interconnecting sections of varying sizes and angles. That section would also be taller at the rear than the front, in contrast to the regular, level ridge of the main house. The flat-roofed rear section, whilst of limited scale, would introduce a further roof form, different again to that of the main building and of the two storey part of the extension.
7. As a result, the extension would have an awkward and irregular appearance, which would not reflect the simpler building forms which characterise the appeal dwelling and other houses in the wider street scene. It would be visible to some degree from the courtyard to the front of the site and, despite the presence of planting within the site's rear garden, would also be highly prominent in wider public views along Meal Hill Lane, which runs immediately to the rear of the site. In those public views, the extension would appear as an unsympathetic and highly discordant addition, which would cause harm to the character and appearance of the appeal building and its surroundings.
8. With its timber-clad walls and sedum roof, the materials of the proposed extension would contrast with those of the appeal building and other stone houses further along Meadow Lane. However, the site is located on the outer edge of that wider estate and the extension would be positioned such that the most prominent public views of the development would be along Meal Hill Lane to the rear. In that wider street scene, I observed some greater variety in building materials, including the incorporation of sections of white boarded cladding to the older houses on the opposite side of the Meadow Lane junction.
9. The appeal property is one of the last houses on Meal Hill Lane before it leads out into open countryside, and its rear elevation faces an area of open land opposite. As a result of the steeply sloping gradient of Meal Hill Lane and the fields beyond, the site and its immediate neighbours are viewed against the attractive backdrop of that open countryside when travelling out of Slaithwaite along Meal Hill Lane.

10. In that context, the use of timber boarding and a sedum roof would make some reference to the buildings and natural features of the rural landscape opposite and beyond the site, and provide some sense of transition between the built-up area and that adjacent rural landscape as the housing along Meal Hill Lane tapers out into the countryside. Therefore, and having regard to the variety of materials evident elsewhere in the wider street scene, the proposed materials would distinguish the extension from the host property without causing harm to its character and appearance, or those of its wider surroundings.
11. However, whilst I find no specific harm arising from the proposed materials, that does not alter my conclusions regarding the harm I have identified as a result of the unduly complex, irregular and discordant form of the extension. Therefore, for the reasons given, I conclude that the extension would have an adverse effect on the character and appearance of the appeal site and its surroundings. The proposal would therefore conflict with Policy PLP 24 a. of the Local Plan which, amongst other things, states that proposals should promote good design by ensuring the form and details of all development respects the character of the townscape.
12. The proposal would also conflict with the Framework, which states that planning decisions should ensure that developments are sympathetic to local character, including the surrounding built environment.

Living conditions

13. The extension would be close to the boundary with No 6 Meadow Lane, and parts of it would be visible from the rear garden of that neighbouring property which, I observed, is relatively small in size. However, the two storey part of the extension would project no further than the rear elevation of No 6, and the single storey ground floor section would extend only slightly beyond the rear of that neighbouring property. For much of its depth, including all of its first floor, the proposed extension would therefore be positioned alongside the drive of No 6, rather than immediately adjacent to its private rear garden area. Consequently, and as the only section extending directly alongside No 6's rear garden would be a single storey component of limited depth, the extension would not appear as an unduly dominant or overbearing feature, or create a sense of enclosure to that neighbouring rear garden.
14. I have had regard to the appellant's overshadowing study, and recognise that the development, roughly to the south of No 6, may result in some additional shading of parts of that small neighbouring rear garden at certain times. However, the main bulk and mass of the extension would be located adjacent to No 6's drive, and it would not project directly alongside No 6's rear garden to any significant degree. The extension's roof would also be lower than the ridge of the existing appeal building which, itself, is located at a lower level than No 6. Therefore, any additional shading of that neighbouring rear garden which may arise, over and above that already caused by the existing appeal building, would not be of such an extent or duration as to significantly or adversely affect the living conditions of the occupants of No 6, or compromise their use or enjoyment of that garden area.
15. For the reasons given, I therefore conclude that the proposed development would not have an adverse effect on the living conditions of the occupants of 6 Meadow Drive with regard to outlook or light. The proposal would therefore

not conflict with Policy PLP24 (b) of the Local Plan which, amongst other things, states that proposals should promote good design by ensuring they provide a high standard of amenity for neighbouring occupiers. That requirement is consistent with the Framework, which states that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.

Other Matters

16. I have been referred to a number of other extensions in contrasting materials and of differing appearances elsewhere in Slaithwaite. However, I have little before me with regard to the circumstances in which those developments were constructed, and cannot be certain that they were directly comparable in all respects to the proposal before me. In any event, I have considered the appeal on its own planning merits.

Conclusion

17. Whilst I have not found harm to living conditions, the absence of harm in that respect does not outweigh the harm I have identified with regard to character and appearance.
18. Therefore, for the reasons given and having regard to all other matters raised, the appeal is dismissed.

Jillian Rann
INSPECTOR



Appeal Decision

Site visit made on 26 March 2019

by **Nicholas Taylor BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3rd May 2019

Appeal Ref: APP/Z4718/W/18/3209835

Nether Moor Farm, Sandy Lane, South Crosland, Huddersfield HD4 7BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mrs Angela Bradley against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/91733/W, dated 18 May 2017, was approved on 23 February 2018 and planning permission was granted subject to conditions.
 - The development permitted is *erection of alterations and extensions to existing farmhouse and erection of extensions and alterations to existing attached agricultural barns to form 4 dwellings (listed building)*.
 - The condition in dispute is No 12 which states that: *Prior to works in associating [sic] with vehicular access, passing places and turning heads, as shown on plans ref. 4043-10-04 and SCP/17420.FO2 along Byway HUD/231/10 taking place and prior to occupation of the hereby approved dwellings, details of the surfacing and method of construction of vehicular access, passing places and turning heads shall be submitted to the Local Planning Authority. Prior to the occupation of the hereby approved dwellings the details as so approved shall be implemented. The passing places and vehicle turning facilities shall thereafter be left free of obstruction and retaining [sic] for their intended purpose.*
 - The reason given for the condition is: *In the interest of ensuring the safe and efficiency [sic] operation of the Highway Network, including local Public Rights of Way, in accordance with Policies T10 and R13 of the Kirklees Unitary Development Plan and PLP21 and PLP24 of the Kirklees Publication Draft Local Plan.*
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Decision

1. The appeal is allowed and the planning permission Ref 2017/62/91733/W for erection of alterations and extensions to existing farmhouse and erection of extensions and alterations to existing attached agricultural barns to form 4 dwellings (listed building) at Nether Moor Farm, Sandy Lane, South Crosland, Huddersfield HD4 7BX granted on 23 February 2018 by Kirklees Metropolitan Borough Council, is varied by deleting condition No 12 and substituting for it the following condition:
 - 12) The dwellings hereby approved shall not be occupied until the works to the proposed access route from Sandy Lane, including provision of vehicular passing places and turning heads, as shown on plans ref. 4043-10-04 and SCP/17420.FO2, have been carried out. Prior to the commencement of such works, details of their surfacing and method of construction shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details and the passing places and vehicle turning facilities

shall thereafter be kept free of obstruction and retained for their intended purpose.

Application for costs

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

Procedural Matter and Main Issue

3. The appellant does not dispute the need for the condition in principle, but objects to the reference in its wording to 'Byway HUD/231/10'. She also objects to an Informative Note, included on the decision notice, which refers to 'public footpath HUD/233/10 and public Byway HUD/231/20'. The Informative Note does not have the legal status of a planning condition and there is no provision, in law, for an appeal to be made against it. Consequently, I have not considered it further in my decision.
4. The legal status, indeed existence or otherwise, of any public right of way (PROW) affecting the appeal property is a matter for determination under the Highways Acts and is not before me in this appeal. The appellant has lodged a separate appeal¹ concerning the rights of way issues which, at the time of writing, has yet to be determined.
5. Therefore, the main issue in this appeal is whether, having regard to planning considerations, condition No 12 is necessary and reasonable.

Reasons

6. Planning permission was granted for a scheme to alter an existing farmhouse and convert agricultural barns into four new dwellings. As part of the approved scheme, it is proposed to improve the access track which leads from Sandy Lane to the farmstead. The drawings referred to in the condition indicate the extent of the works and demonstrate that large vehicles would be able to negotiate the passing places and turning head but do not specify details of construction.
7. Relevant development plan policies and paragraphs 108(b) and 110 of the *National Planning Policy Framework* (the Framework) require, among other things, that developments should provide safe and suitable access, minimising conflicts between users. Consequently, I am satisfied that a condition requiring further details of the works is, in principle, necessary and reasonable on planning grounds and that it is also necessary and reasonable to require the improvements to be carried out before the occupation of the dwellings. The appellant has signalled in writing her agreement in principle to such a condition.
8. In the interests of certainty, it is necessary to identify the works to which the condition relates. However, this can be achieved with adequate precision by referring to the proposed access route from Sandy Lane and to the two relevant drawings, which clearly show the intended locations. Whilst the potential existence of a PROW, albeit in dispute, is a material planning consideration, it is not necessary for this purpose to refer explicitly to Byway

¹ PINS Ref ROW/3202859

HUD/231/10. The requirement for surfacing and construction details to be submitted would ensure that the route can be made suitable for all authorised users. The appellant acknowledges that she is aware of the need to abide by the requirements of the Highways Act, in so far as they may be relevant.

9. Therefore, I conclude that the appeal should be allowed and, as the appeal is made under s79 of the relevant Planning Act, the permission should be varied by deleting condition No 12 and substituting a revised condition in its place. I have re-organised the wording of the condition in the interests of clarity and to ensure that it meets the tests set out in paragraph 55 of the Framework.

Nicholas Taylor

INSPECTOR



Appeal Decision

Site visit made on 9 April 2019

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2019

Appeal Ref: APP/Z4718/W/18/3216438

Green Lane Mill, Green Lane, Holmfirth HD9 2DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Priestley Homes LTD against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/90713, dated 2 March 2018, was refused by notice dated 21 May 2018.
 - The development proposed is prior approval for change of use from office (B1) to 11 apartments (C3).
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO) for change of use from office (B1) to 11 apartments (C3) at Green Lane Mill, Green Lane, Holmfirth HD9 2DX in accordance with the terms of the application, Ref 2018/90713, dated 2 March 2018, and the plans submitted with it subject to the conditions in Schedule 2, Part 3, Paragraph O.2 (2) and Paragraph W (12) (a) of the GPDO, and the following conditions:
 - 1) The development shall not be brought into use until the bike storage facility has been provided, and all the areas indicated to be used for the parking of vehicle's have been marked out and laid out with a hardened and drained surface in accordance with the Drawing No. 05 Rev C. Thereafter these areas shall be so retained, free of obstructions and made available for the use specified on the plan.
 - 2) Prior to occupation of the development hereby approved, 1 no. vehicle recharging point shall be installed in the car park of the hereby permitted development. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32 Amps. Thereafter the electric vehicle recharging point shall be retained.

Main Issue

2. Schedule 2, Part 3, Class O of the GPDO permits development consisting of a change of use of a building and any land within its curtilage from use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule.

3. Development coming within Class O is deemed to be granted planning permission by the GPDO provided that it would comply with the limitations listed in paragraph O.1 of Class O. It is a condition of Class O, among other things, that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to its impact on: transport and highways; contamination risks on site; flooding risks on site; and the impacts of noise from commercial premises on the intended occupiers of the development.
4. The dispute between the main parties is solely based around paragraph O.2 (a) of the GPDO. On the basis of the evidence that is before me, I agree that the proposed development would meet the remaining parts of paragraph O.1, and that it would accord with the remaining provisions of paragraph O.2 of the GPDO. I therefore consider the main issue to be the transport and highways impacts of the proposed development.

Reasons

Approach to the decision

5. Since the Council's decision, the Kirklees Local Plan (Local Plan) has been adopted. Policies in the Local Plan supersede saved policies within the Kirklees Unitary Development Plan (UDP). While UDP policies are no longer relevant and the Local Plan policies now carry full weight, paragraph W (10) of the GPDO states that the local planning authority must, when determining an application have regard to the National Planning Policy Framework (the Framework), so far as relevant to the subject matter of the prior approval, as if the application were a planning application. As such, despite reference to Local Plan policies PLP21 and PLP22 in the evidence before me, I have determined the appeal having regard to the provisions within the Framework.

Transport and highways impacts of the proposed development

6. The appeal site comprises of a vacant detached three storey mill building built in stone and with a pitched roof. The mill is to the south of Holmfirth, the main settlement in the area. Washpit New Road and Dunford Road link the site to Holmfirth. The building is partly split-level and it is served by an area of car parking to the north. To the east are residential properties: Green Lane Farm and Green Lane Barn. To the south-west is Washpit Mills, which has been subject to recent development proposals. The most recent were granted planning permission by the Council for a mixed-use scheme¹. This followed an earlier appeal decision which resulted in two cases being dismissed². I note the Inspector's findings on highway and transport matters.
7. Framework paragraph 108 explains that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; and c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Framework

¹ Council Refs: 2017/62/94336/W and 2017/65/94337/W

² Appeal Decisions APP/Z4718/W/17/3169043 and APP/Z4718/Y/17/3174173

- paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
8. The proposal would provide 14 no. car parking spaces to the front of the building and 22 no. bicycle spaces in the basement. Notably, the Council do not dispute the appellant company's view that the proposal accords with the Council's local standard for car and cycle parking provision. Furthermore, the appellant company estimates that the building could be occupied by around 12 people based on Census data for Kirklees. However, in practice this figure could be higher given that each unit would have two bedrooms large enough for a double bed. In any event, the Council contend that more parking provision is warranted in this case having regard to the site's location and future occupants' reliance on the private car for their day-to-day journeys.
 9. The prior approval process does not directly require consideration of 'location', but the site's location does have a direct bearing on transport and highways impacts of the development.
 10. I am informed that the Washpit Mills development includes the provision of a footway along Washpit New Road to Dunford Road. I do not have any details of this before me, and I did not observe any footway along the road during my site visit. Having regard to the evidence before me, it would seem that the Washpit Mills scheme and the appeal scheme would collectively amount to a similar number of residential properties as that which formed the basis of the dismissed appeal schemes.
 11. Green Lane Mill is just over a mile away from Holmfirth and around 7.5 miles away from Huddersfield. Regular bus services to both towns stop at bus stops around 450 metres away on Dunford Road. Based on my observations on site, I do not have any sound reasons to disagree with the findings of the Inspector who considered the Washpit Mills appeal schemes insofar as the actual and perceived risk of conflict between pedestrians and vehicles along Washpit New Road, and the significant disincentive that this route would pose to regular pedestrian use. Although the Washpit Mills scheme was for a different type and quantity of development, pedestrian journeys to the bus services would be no different. Thus, I concur that any realistic pedestrian access to sustainable travel options would not be present. I accept, however, that the provision of a pedestrian footway along Washpit New Road would only likely improve matters.
 12. Considerable cycle parking provision is proposed. This would enable and to an extent encourage use by cyclists. However, the topography of roads leading to and from the site are steep in places. This is the case for Rich Gate and Choppards Bank Road which lead to Dunford Road. Green Lane and Lamma Well Road leading onto Cartworth Road would pose a similar issue. All bar the fittest and most enthusiastic cyclists would be put off from using these routes. Washpit New Road is more gradual and Dunford Road leading into Holmfirth would be mostly downhill. Return journeys would, however, be uphill until Washpit New Road, meaning only the fittest and willing would be likely to cycle.
 13. Even though sustainable modes of transport would be available to future occupants, for the reasons explained above, I am of the view that future occupants would be heavily reliant on the use of private motor vehicles. Carpooling may lessen the singular use of vehicles, but it would not wholly change matters.

14. The Council suggest that two spaces per apartment is necessary. The reason for this level of provision is not explained, but this would probably amount to an over-provision. That said, equally, there is the potential for more vehicles than the appellant company's estimates. If true, any vehicles unable to park in the designated spaces would make use of Green Lane in front of the site to park. There are no restrictions here. Road users travelling along Green Lane, Washpit New Road and Rich Gate would not be travelling at speed due to the width and alignment of the roads, coupled with the junction of the three roads near to the site. The lane would also enable road users to pass any parked vehicle, and suitable visibility for the surroundings.
15. Concern is expressed by the Council about the accessibility of a number of the proposed parking spaces. Spaces 1 to 3 and 12 and 13 would result in vehicles either reversing into or out of these spaces onto Green Lane. I agree that the proposed arrangements are not ideal, but these arrangements appear to have been in place in conjunction with the office use. There is no suggestion that this led to highway safety issues or that users were unable to safely access these spaces. While there would be nothing to prevent future occupants or visitors from parking on the road, this would not be as a result of the proposed parking arrangements which are more likely to be used by future occupants and visitors for reasons of safety and convenience among others.
16. In drawing these matters together, I consider that the appeal scheme would not give rise to an unacceptable impact on highway safety. Nor would the residual cumulative impacts on the road network would be severe. I conclude that the transport and highways impacts of the proposed development would be satisfactory having regard to Framework paragraphs 108 and 109.
17. In the event that I am wrong, I have no reason to doubt that the building is in good condition and has a range of utilities. While, the building has not been actively marketed as an office while the proposal has been considered, the Council do not dispute the appellant company's view that the building could not successfully marketed as an office. I also have no reason to disagree that this could potentially result in a greater number of employees than the previous occupier who employed between 50 and 60 members of staff. Thus, there is a greater than theoretical possibility that the fallback position might take place.
18. Photographic evidence shows that when the building was used as an office the car parking area was over-subscribed and on-street car parking took place. There is no substantive evidence to suggest that this situation may not arise in the future. The Highways Appeal Statement demonstrates that there would be less two-way trips in both peak periods in connection with the proposed development compared to the office use. There would also be likely to be a character change in how vehicles use the site, with vehicles being parked overnight and not during the day when there is generally more traffic on the roads. Despite the numerous appeal decisions³ cited, based on the specifics of this case, I consider that the fallback position would be more harmful than the appeal proposal and would therefore help justify it.

Planning obligation

19. A signed and executed section 106 (s106) planning obligation has been submitted. The s106 would provide for a contribution towards highway safety

³ Appellant Company's Statement of Case, Appendix 9

measures and/or sustainable transport measures within the vicinity of the site. Notwithstanding the Council's view on the s106, the planning obligation is not necessary in this case given my findings on the transport and highways impacts of the proposed development and the fallback position. As such, the s106 is unnecessary and I afford it no weight.

Other matters

20. While there may be demand for family homes in the area, the proposal would contribute to the overall housing mix in Kirklees and bring the mill back into use without resulting in additional built form.

Conditions

21. Paragraph W13 of the GPDO states that prior approvals may be granted subject to conditions reasonably related to the subject matter of the prior approval. I have had regard to the Council's suggested planning conditions. I consider that a requirement to provide the parking and cycling spaces for residents relates to highway and traffic issues, and so I have included it. I have also included a requirement for a vehicle recharging point in the car park given that low and ultra-low emission vehicles are a sustainable transport mode. These conditions are in addition to the conditions that the development must be completed with a period of 3 years starting with the prior approval date; and the development must be carried out where prior approval is required, in accordance with the details approved by the local planning authority.

Conclusion

22. I conclude that the proposed development would accord with the requirements for development permitted under Class O of Schedule 2, Part 3 of the GPDO and that the appeal should be allowed and approval granted.

Andrew McGlone

INSPECTOR



Appeal Decision

Site visit made on 19 March 2019

by Kate Mansell BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 April 2019

Appeal Ref: APP/Z4718/D/18/3218457

Brigsteer, 402 Birkby Road, Birkby, Huddersfield HD2 2DN

- 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 Acumen Architects against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/62/90978/W, dated 21 March 2018, was refused by notice dated 24 September 2018.
 - The development proposed is an extension to dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for an extension to dwelling at Brigsteer, 402 Birkby Road, Birkby, Huddersfield, HD2 2DN in accordance with application Ref 2018/62/90978/W, dated 21 March 2018, subject to the following conditions:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
 - 2) The development hereby permitted shall be carried out in complete accordance with the following approved plans: 2532-01 Rev A (Plans as existing), 2532-02 Rev A (Elevations and Sections as existing), 2532-03 Rev C (Plans and elevations as proposed), 2532-04 Rev H (Proposed Site Plan), 2532-05 Rev D (Contextual elevations and block plan) and 2532-LOC Rev B (Location Plan).
 - 3) The materials to be used in the construction of the external surfaces of the extensions hereby permitted shall match those on the existing dwelling in material, colour, size and texture.

Procedural Matters

2. The Council adopted the Kirklees Local Plan (Kirklees LP) on 27 February 2019. I am required to determine the appeal on the basis of the development plan that is in force at the time of my decision. Accordingly, the proposal should now be considered against Policy PLP24 of the adopted LP, which is cited in the reason for refusal. The parties have had the opportunity to comment on the effect of the Kirklees LP on the proposed development and I have taken all comments into account in reaching my decision.
3. On 19 February 2019, the Government published an updated revised version of the National Planning Policy Framework (the Framework). In relation to the

main issue in this appeal, Government policy has not materially changed. Accordingly, no parties have been prejudiced by my having regard to it.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. Birkby Road is a busy thoroughfare that is principally characterised by large individually designed detached dwellings that are set back from the highway behind stone boundary walls. Typically planted behind the walls are hedgerows or mature trees, which gives the street an attractive tree-lined appearance.
6. The appeal site at No 402 (named Brigsteer) is a spacious modern house set within a modest garden that originally secured planning permission in 2004. It presents a side elevation to Birkby Road, from which it is set in beyond a side garden and screened by both tree and hedge planting behind the boundary wall. The entrance to the property is from an access that runs northward from Birkby Road onto which the front elevation of the property faces. To the rear, the appeal site is adjoined by a modern Church building.
7. The appeal proposal would introduce a two-storey extension attached to the south-facing elevation of the house and a single storey extension to the north-east corner. Both would be constructed in materials to match those on the existing property.
8. I note that the proposal originally submitted to the Council was substantially amended in the course of the planning application process. A detached garage and two-storey rear extension were omitted and the access was retained in its original position, rather than relocating it southwards. I also acknowledge that planning permission for the two-storey element of the appeal proposal was subsequently approved by the Council¹ on 30 January 2019. Nonetheless, I must consider the proposal before me.
9. The two-storey extension would infill a corner between the existing side wall of the house and the rear projection of the dwelling. Whilst it would modestly extend from the flank elevation by approximately 2.3m, the eaves and ridge height would be lower than the original dwelling, resulting in the proposal appearing subservient to the host building.
10. It would also maintain a distance of just under 10m from the site boundary with Birkby Road. Even taking into account the highway improvement scheme referred to by the Council, which if it proceeded, would require some of the appellant's land, there would still be a distance of 6.5m between the extension and the site boundary. Given that this would comprise the appellant's garden, a landscaped setting between the road and the house would be retained.
11. This would also permit either the retention of the existing trees, albeit acknowledging the Council's view that they do not merit a Tree Preservation Order, or three new trees that are indicated on the proposed site plan taking account of the implementation of the potential highways works. In this context,

¹ Council Ref: 2018/62/93226/W

I consider that the two-storey extension would not appear visually dominant within the street scene.

12. The single storey extension would not project beyond the rear elevation of the house. It would therefore not be visible from Birkby Road. It would also be screened in views from the Church to the rear by the boundary treatment and it would be generously set in from the northern and western boundaries. On this basis, given its limited scale and that it would effectively infill the north-east corner of the dwelling, it would not be a visually assertive addition.
13. Taken together, the two storey and single storey extensions would amount to an additional footprint of approximately 45.9m². The recent approval for the two-storey extension cited above confirms that the plot coverage of the existing house at No 402 is 17.5%. The extensions would increase that to approximately 21%. In comparison, the plot coverage of the adjacent dwelling at 408 Birkby Road is identified by the Council to be approximately 19.8% and 23.75% by the appellant.
14. Consequently, by far the majority of the appeal site plot would not be built upon and a sufficient area of useable garden would remain. The plot coverage following the implementation of the extensions would not be dissimilar to that of No 408. In any event, the Council's policies do not establish a proportion of plot coverage above which would be deemed over-development. On the evidence before me, the extensions would therefore appear subservient in their scale and form and the proposal would ensure that the extended dwelling would still remain within a landscaped plot with reasonable distances maintained to each boundary.
15. For these reasons, I conclude that the proposal would not be visually dominant within the street scene and consequently, they would not be harmful to the character or appearance of the area. Accordingly, I find no conflict with Policy PLP24(a) and (c) of the Kirklees LP. This policy seeks, amongst other matters, to ensure that the development respects the character of the area and that extensions are subservient to the existing building in scale, materials and detailing. It would also be consistent with the objectives of paragraph 127 of the Framework, which requires development to be sympathetic to local character.

Other matters

16. I have had regard to the issues raised by third parties, many of which include concerns relating to the original proposal and elements that were omitted from the scheme in the course of the planning application process. Accordingly, they do not form part of the proposal before me. Additionally, any concerns relating to whether or not the original dwelling was constructed in accordance with the approved plans is a matter for the Council to enforce.
17. Reference is also made to covenants and rights of access. However, these are civil matters that do not affect the planning merits of the proposal. It is not a reason to withhold planning permission in the absence of any significant planning harm.
18. With regard to matters of privacy and overlooking raised by third parties, the Council do not identify any specific concerns and given the distances between the extensions and the nearest curtilage, I have no reason to disagree.

19. I acknowledge the site's proximity to the Edgerton Conservation Area, the edge of which appears to extend along the stone boundary wall of the dwellings opposite the site on Birkby Road. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character and appearance of the CA. However, the two-storey extension closest to the CA would be set comfortably within the garden of the appeal property, across the road from the boundary of the CA. I consider that it would have no perceivable effect upon the character or appearance of the CA, which would therefore be preserved.
20. A number of representations refer to the trees within the site either with regard to supporting their removal or seeking their protection, which is addressed above. Moreover, I note that within the 2004 Reserved Matters approval for the host dwelling², there is, in any event, a condition stating that the 12 trees within the site should be retained.

Conditions

21. I have considered the planning conditions suggested by the Council in light of paragraph 55 of the Framework and the advice in the Planning Policy Guidance. In addition to the standard time limit condition and in the interests of certainty, it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans. A condition relating to materials is appropriate in the interests of the character and appearance of the area.
22. In granting permission for the two-storey element of the proposal referred to above, the Council imposed a construction management condition and a condition removing permitted development (PD) rights. I am unconvinced, however, that a construction method statement would be necessary given the scale of the proposal. In relation to PD, I note that permitted development rights were, in any event, previously removed from the property as part of the 2004 Reserved Matters approval cited above (Condition 8).

Conclusion

23. For the reasons set out above, I conclude that the appeal should be allowed.

Kate Mansell

INSPECTOR

² Council Ref: 2004/91771



Appeal Decision

Site visit made on 27 March 2019

by **R Bartlett PGDip URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 May 2019

Appeal Ref: APP/Z4718/W/18/3213285

70A Acre Street, Lindley, Huddersfield, HD3 3EL

- 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 Diane and Ryan Stoppard, Ink Spot Bars Limited, against the decision of Kirklees Council.
 - The application Ref 2018/62/91750/W, dated 29 May 2019, was refused by notice dated 27 July 2018.
 - The development proposed is change of use classes under the Town and Country Planning (Use Classes) Order 1987 from class A1 (Shops) to A4 (Drinking Establishments).
-

Decision

1. The appeal is allowed and planning permission is granted for change of use classes under the Town and Country Planning (Use Classes) Order 1987 from class A1 (Shops) to A4 (Drinking Establishments) at 70A Acre Street, Lindley, Huddersfield, HD3 3EL in accordance with the terms of the application, Ref 2018/62/91750W, dated 29 May 2019, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Diane and Ryan Stoppard, Ink Spot Bars Limited, against Kirklees Council. This application is the subject of a separate Decision.

Procedural Matter

3. Since the appeal was submitted the Kirklees Unitary Development Plan has been superseded and replaced by the Kirklees Local Plan (local plan). The appeal has been assessed against the relevant policies of the new local plan.

Main Issue

4. The main issue in this appeal is the effect of the proposal upon the living conditions of neighbouring residents with particular regard to noise and disturbance.

Reasons

5. 70A Acre Street is a vacant single storey retail unit located within a mixed use area. Residential development surrounds the site on three sides and there are further retail units on the fourth side. The premises are located on the edge of, but within, an area defined by the local plan as a District Centre where a mix of

- uses to serve the local community, businesses and visitors are encouraged including a range of uses to support the daytime and evening economy.
6. A Noise Impact Assessment has been submitted with the appeal in support of the appellants case. This found that at present the dominant noise source in the area is that of road traffic. Secondary to that was the noise from passing groups of pedestrians shouting and talking. Neither of these findings are surprising given the location of the site on a busy main route into Huddersfield and the proximity to other commercial uses, including other licensed premises.
 7. The Noise Impact Assessment recommends a series of mitigation measures that could be imposed to minimise noise and disturbance from the proposed use. The Council maintains its objection due to continued concerns about noise and disturbance primarily caused by patrons drinking and smoking outside of the premises. They also express concern regarding noise caused by mechanical appliances such as air conditioning units and about the impact severe restrictions might have on the success of the proposed business.
 8. I have considered the concerns of the Council along with those of local residents and I acknowledge that some noise and disturbance is likely to occur from customers arriving and leaving the premises and from those standing outside to smoke. However, in the context of the existing noise environment, I do not consider that the additional activity generated by the proposal would make a significant difference.
 9. Conditions can be imposed to prevent patrons from consuming food or drink on the forecourt to the front of the building. This would minimise the length of time that smokers spend outside the building, which is stated as being the Council's primary concern. Conditions can also be imposed to control matters such as opening times, music levels, keeping windows and doors closed, introducing a double door lobby and the location and type of mechanical ventilation to be used.
 10. I note that the appellants are not the current owners of the premises and as such, should they consider that the restrictions required in this location would not suit their business requirements, they have the option to look for an alternative site that better meets their needs. In my view it is for the appellants, rather than the Council, to decide whether or not any restrictive conditions would affect the success and viability of their business. The appellants would be purchasing or leasing the site in the full knowledge of these restrictions and in the full knowledge that their surrounding residential neighbours would be likely to make justified noise complaints if they cannot or do not manage the noise aspect of their business effectively. Furthermore, I have been provided with no compelling evidence that the conditions imposed would render the proposal unworkable or to be unreasonably restrictive.
 11. In reaching this view I have had regard to the size and nature of the proposed use, which is small scale and intends to offer locally made craft ales, in a relaxed environment with background music only. Although ownership could change in the future, the conditions to control noise would remain in force and would deter those seeking premises for a livelier business. I am also mindful of the fact that the Council has already granted a licence for the sale and consumption of alcohol on the premises and that the Police have raised no objections from a crime prevention perspective noting that antisocial behaviour would have been addressed as part of licensing process.

12. I therefore conclude that the change of use would not conflict with policy PLP 24(b) of the local plan, which is a design policy that seeks to ensure high standards of amenity and to maintain development free buffer zones between housing and employment uses (presumably in use class B). In this case the appeal premises are already in commercial use and the Council has just adopted the District Centre boundary having had regard to its proximity to residential properties. The proposal would not result in commercial properties being located any closer to residential properties than what presently exists.
13. In light of the additional evidence submitted with the appeal, the proposal would also comply with policy PLP 52 of the local plan and paragraph 180 of the National Planning Policy Framework, which require proposals that have the potential to increase noise to be accompanied by evidence to show that the impacts have been evaluated and measures incorporated to mitigate against any adverse impacts.

Other Matters

14. In addition to the main issues addressed above, local residents have raised concerns regarding increased traffic and its associated air pollution and parking problems. I observed on my site visit that a residents parking permit scheme is in operation. The Local Highway Authority has not raised any concerns. The proposal relates to a local pub, which is within walking distance of a large residential catchment area and is on a main road served by public transport. To my mind the traffic and parking demand generated by such a use will be very limited.
15. A petition and an online survey have been submitted, which show significant support for the proposal. I am also mindful of the economic benefits that would result from the proposal, such as the creation of local jobs, bringing a vacant retail unit back into use and supporting the vitality and viability of the District Centre.

Conditions

16. Since the Council refused the application the appellants have suggested reduced opening hours and a variety of mitigation measures that could be conditioned. The Council has not suggested any conditions.
17. I have imposed the standard time limit for implementation together with an approved plans condition to clarify the red line area to which the permission relates. I have not included the floor plans, which also show an outdoor seating area, as these are not to scale and appear to be inaccurate and misleading.
18. The appeal site is on the outer edge of the defined District Centre and is in close proximity to residential dwellings and gardens. Although the outdoor space to the front of the premises is very small, it is my view that the provision of any outdoor seating would encourage patrons to gather outside, which even before the 9pm threshold suggested, would cause disturbance to adjacent residents using their gardens. As such I consider it reasonable and necessary to impose conditions to restrict eating, drinking and the provision of seating outside of the premises at any time. This condition does not affect the retail sale of craft ales intended to be consumed off-site.

19. Having regard to the Noise Impact Assessment together with the concerns of local residents and the Council I have also imposed the conditions suggested by the appellants relating to opening times and noise mitigation. I have made some slight variations and additions for clarity.

Conclusion

20. For the reasons given above the appeal is allowed subject to the conditions set out in the attached schedule.

Rachael Bartlett

INSPECTOR

Schedule of 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: 1:1250 location plan & 1:500 block plan.
- 3) The drinking establishment hereby approved shall not be open for business other than between the hours of 12:00 and 23:00 Sundays to Thursdays and between the hours of 12:00 and 24:00 Fridays and Saturdays.
- 4) Upon commencement of the use hereby permitted all windows and doors shall be kept closed after 21:00 hours except for ingress and egress.
- 5) No deliveries to the premises shall take place between the hours of 21:00 - 07:00 hours.
- 6) No refuse or recycling material shall be taken out or moved around outside of the building between the hours of 21:00 - 07:00 hours.
- 7) No external seating shall be provided outside of the premises for use by customers in connection with the approved use as a drinking establishment and no food or drink purchased from the premises, for onsite consumption, shall be taken or consumed outside of the building.
- 8) No amplified music, televisions or public address system shall be audible outside of the premises at any time.
- 9) The use hereby permitted shall not commence until a scheme for noise control for plant and mechanical equipment has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and any necessary noise control and attenuation shall thereafter be retained at all times.
- 10) Prior to the commencement of the use permitted, details of the installation of a double door lobby shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the A4 use commencing and shall thereafter be retained at all times.