
Appeal Decision

Site visit made on 29 November 2016

by G J Fort BA PGDip LLM MCD MRTPI

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

Decision date: 08 December 2016

Appeal Ref: APP/Z4718/W/16/3157920

678B Bradford Road, Birkenshaw, Bradford BD11 2EE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Stuart against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/60/90511/E, dated 2 March 2016, was refused by notice dated 28 April 2016.
 - The development proposed is erection of a single dwelling.
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Decision

1. The appeal is allowed and outline planning permission is granted for erection of a single dwelling at 678B Bradford Road, Birkenshaw, Bradford BD11 2EE in accordance with the terms of the application, Ref 2016/60/90511/E, dated 2 March 2016, subject to the conditions set out in the schedule to this decision below.

Procedural Matter

2. The appeal is in outline with access as the only reserved matter to be considered in detail at this stage.

Main Issues

3. I consider the main issues in this appeal to be firstly, whether the appeal scheme would provide a safe and suitable access to the site; secondly, the effects of the proposed development on the character and appearance of its surroundings; and thirdly, the principle of residential development of the site.

Reasons

Site, surroundings and proposal

4. The appeal site is situated to the rear of Bradford Road, which in the immediate environs is broadly residential in character, comprising substantial dwellings. Accessed by a drive from Bradford Road, the appeal site has a close relationship with a small number of detached dwellings branching off that access, and is to the rear of another detached dwelling that has different access arrangements (No 672a). The site is bordered with fencing to a substantial degree, with planting and paraphernalia that imparts to it the character of a residential garden. To the rear of the site, there is a large open
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space, bounded by residential gardens on all sides, which was formerly a football pitch.

5. The appeal scheme seeks approval for the principal of residential development of the site for one dwelling. The proposed development would share the access with the dwelling currently being constructed adjacent to 676 Bradford Road, and Nos 678, 678a, and 678b.

Access arrangements

6. The proposed development would be accessed by a drive of around 90m in length. Vehicles parked at the appeal site would need appropriate space for turning so that they could drive along the access in forward gear. I saw onsite that whilst narrow in places, the drive had a reasonable width adjacent to the gated access to Nos 678a and 678b which would allow for passing. I noted too that immediately adjacent to the entry to the appeal site the access widened out and would allow for some manoeuvring so that cars could comfortably exit in forward gear. Moreover, I am aware that land immediately around the appeal site is within the appellant's ownership and could be used to facilitate manoeuvring.
7. I am mindful that due to the length of the drive service vehicles could have some difficulty in accessing the site. However, due to the limited scale of the appeal proposal, and consequently, the modest additional amount of vehicle movements caused as a result of its development, I am not persuaded that it would exacerbate the existing situation to a degree that would be material. I note concerns about the ability of refuse vehicles to access the site. However, I saw at my visit that dustbins were presented at the top of the site access on Bradford Road, thus I am not persuaded that refuse vehicles would be required to access the site. I noted that there is adequate manoeuvring space in the environs of Nos 678a and 678b to facilitate the turning of a vehicle such as an ambulance, and I consider that the instances of a fire appliance having to access the site would be rare and thus not cause any material harm to highway safety.
8. These considerations lead me to the view that the proposed development would make safe and suitable arrangements for access. Accordingly, in this respect I can discern no conflict with Policies BE1 and T10 of the Kirklees Unitary Development Plan (adopted September 2007) (the UDP), which taken together, and amongst other things, seek to ensure that development does not materially add to highway safety problems.

Character and appearance

9. The site and its surroundings already have a residential character with a development pattern in the environs of the site and around its proposed access that comprises a number of dwellings, in varying sized plots with differing orientations, set back considerably from Bradford Road. Thus I am not persuaded that a single dwelling on the appeal site would be of necessity out of kilter with this prevailing character, or that its siting behind No 672a would be incongruous within the immediate development pattern. Moreover, detailed design and siting at reserved matters stage could ensure that the orientation and development of the plot could be carried out in a manner sensitive to its surroundings.

10. The appeal site would bring substantial built development deeper behind the building line of Bradford Road than its immediate neighbours. However, I saw that the appeal site was inter-visible with other dwellings that are deeper behind the principal built frontage of the road, and thus in that wider context the development of the appeal site would not read as a harmful encroachment into an otherwise undeveloped space, and would not harm the character or appearance of the area in this regard.
11. Whilst mindful of the Council's concerns that provision of a turning area onsite could compromise the layout of the development, I am not persuaded that it would do so to a degree that would be of necessity harmful to the character or appearance of the site or its surroundings. Moreover, I am mindful that the wider landholding of the appellant in the environs of the site could provide alternative opportunities to facilitate vehicle manoeuvres.
12. Consequently, for these reasons, I can discern no conflict with Policies BE1 or BE2 of the UDP or the National Planning Policy Framework (the Framework) in these regards. Taken together, and amongst other things, these policies seek to ensure that development retains a sense of local identity and is in keeping with the character of its surroundings.

Principle

13. The appeal site is within a Designated Urban Greenspace for the purposes of the UDP. Criterion (i) Policy D3 of the UDP restricts the development of Designated Urban Greenspace unless, amongst other things, it is for the continuation or enhancement of established uses, a change of use to an alternative open land use or specific community benefits. Criterion (ii) of Policy D3 requires development to provide alternative provision of urban greenspace in both quantitative and qualitative terms.
14. The proposed development would not comply with the technical requirements of either of these criteria, and thus in this regard it would conflict with the development plan. However, I am mindful that the Council is unable to demonstrate a five-year supply of deliverable housing sites. Paragraph 49 of the Framework makes it clear that in such circumstances, relevant policies for the supply of housing should not be considered up-to-date.
15. Whilst Policy D3 is not a policy that is directed explicitly to housing supply matters, through restricting residential development it has the effect of constraining supply, and consequently, I consider it to be out of date in the context of the Framework. The Framework makes it clear at paragraph 14 that where policies are out of date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate that development should be restricted.
16. The appeal site does not have the character of a public open space, or recreation ground, and is much more akin to a residential garden. Moreover, I am also mindful that the former football ground to the rear is in the appellant's private ownership and is also landlocked to a significant degree by surrounding residential development. I am conscious that, as the appellant makes clear, due to the length of disuse of the former football ground that it would not constitute a playing pitch for the purposes of Sport England's criteria.

Furthermore, the appeal site is in private ownership, and I have been supplied with no substantive evidence to suggest that the open space to the rear is accessible through there, or whether it would be so in future even if the site were not developed. Consequently, I consider that the proposed development would not conflict with paragraphs 73 and 74 of the Framework as they relate to the provision of high quality open spaces and sports and recreational land.

17. Furthermore, the proposed development would deliver an additional unit of housing against an identified undersupply. Whilst this would only make a modest contribution, it would be a clear benefit of the proposed development that weighs in its favour to some degree. As I have discerned no material harm to the character or appearance of the area, or to highway safety more generally, I find no harms that would significantly and demonstrably outweigh this benefit.
18. I note too that proposals in the emerging local plan for the district would remove the appeal site from the Designated Urban Greenspace allocation. Whilst, due to the early stage of its preparation, I attach only limited weight to the emerging plan, this is a matter that nevertheless weighs in favour of the principle of residential development on the site.
19. Thus whilst I discern conflict with Policy D3 of the UDP, for the reasons given above I give more weight to the Framework in this instance, and as a consequence, consider that the principle of residential development of the site is established.

Conditions

20. I have considered the list of conditions supplied by the Council against the tests given in paragraph 206 of the Framework. This states that conditions should only be imposed where they are necessary; relevant to planning and the development to be permitted; enforceable; precise; and reasonable in all other respects.
21. In the interests of certainty, I have attached a condition specifying the approved plan.
22. As the appeal is in outline, I have attached a suite of conditions requiring timely submission of details of reserved matters to the Council, and approval of them before development commences. However, as the submission of plans and details is covered in these conditions, I consider it unnecessary to attach a separate pre-commencement condition requiring plans showing the existing and proposed site, road and building levels.
23. As the appearance, scale, layout and landscaping of the site are reserved matters I have not considered it necessary at this stage to attach a pre-commencement condition in respect of boundary treatment.
24. In order to facilitate sustainable modes of travel in line with the policies contained in the Framework, and in the interests of future occupiers of the proposed dwelling, I have attached a condition requiring installation of an electric vehicle recharging point prior to first occupation of the dwelling.

Conclusion

25. Although the appeal scheme would not meet the requirements of Policy D3 of the UDP, due to the Council's inability to demonstrate a deliverable five-year supply of housing land, I have given more weight to the proposed development's compliance with the relevant policies of the Framework in this instance. The proposed development would not conflict with any of the other development plan policies that have been brought to my attention. Accordingly, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should succeed.

G J Fort

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: SITE LOCATION PLAN.
- 2) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 3) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 4) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 5) Prior to occupation of the dwelling, an electric vehicle recharging point shall be installed. 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. The electric vehicle charging point so installed shall thereafter be retained.