

Appeal Decision

Site visit made on 15 November 2016

by Andrew McCormack BSc (Hons) MRTPI

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

Decision date: 13 December 2016

Appeal Ref: APP/Z4718/W/16/3157091

Land adjacent to 11 Park View, Cleckheaton, Kirklees BD19 3AN

- 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 James Nicholson against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/90818/E, dated 28 February 2016, was refused by notice dated 12 April 2016.
 - The development proposed is a detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area;
 - the effect of the proposed development on the living conditions of the occupiers of neighbouring properties, with regard to privacy and outlook; and
 - whether the proposed development would provide adequate living conditions for future occupiers with regard to outlook.

Reasons

Character and appearance

3. The appeal site is situated to the rear of Nos 13 and 15 Park View (Nos 13 and 15) and is a small, approximately square plot of land that historically formed part of the rear gardens serving those properties. The surrounding area is typically characterised by rows of terrace properties along the east side of Park View. Plot sizes in the area are mostly small, narrow and linear.
 4. It may be that the scale of the proposed dwelling has been reduced to overcome previous concerns. However, in my judgement, the proposal would still fail to overcome the constraints arising from the size and shape of the plot, which are insufficient to suitably accommodate the proposal. Whilst the plot is of a similar area and plot to building ratio to those of adjacent properties, its shape would not, in my view, allow the proposed dwelling to sit comfortably on
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the site nor provide a reasonable level of outdoor space around it. As a result, the proposed development would appear cramped, particularly given its proximity to the adjacent properties at Nos 13 and 15.

5. The northern elevation of the proposed dwelling would comprise a gable wall with a number of small windows glazed with obscured glass. I appreciate that such glazing may have been considered appropriate in order to address previous concerns regarding privacy and to ensure policy compliance in relation to distances to other nearby properties. However, I find that the use of such glazing in all of the windows on the principal street elevation of the dwelling would be inappropriate. It would fail to address the street positively, appearing incongruous in design and detrimental to the wider streetscene. I do not accept the appellant's view that they would, to the observer, have the same appearance as a clear glass window.
6. The appearance of the proposed dwelling would not relate well to the architectural style and features of the properties opposite at Nos 9 and 11 Park View (Nos 9 and 11). I acknowledge that the part of Park View where the proposal is situated has two large gable flank walls at its junction with the main part of the street. However, these are not the principal elevations of the properties and therefore would not justify a continuation of a similar effect in a principal elevation of any new development in the area. Furthermore, such large flank walls are an inevitable and integral part of the character of the area, given the nature of the prevailing terrace properties. Therefore, such features should be considered in their context. The proposed dwelling, even if built of materials to match surrounding dwellings, would not be in a similar context or be of a similar scale to those gable walls. As a result, I consider a comparison between the two would be difficult to justify in terms of assessing character and appearance.
7. The appellant argues that the appeal site is untidy and overgrown and that the proposal would improve the appearance of the site and the area. Whilst I appreciate that this may be so, I consider that there are other ways to improve the appearance of the site and find that this would not justify a development which would be contrary to planning policy.
8. Consequently, I conclude that the proposal would have a harmful effect on the character and appearance of the surrounding area. Therefore, it would be contrary to Policies D2, BE1 and BE2 of the Kirklees Unitary Development Plan (UDP). Amongst other matters, these policies seek to ensure that development is of high design quality and results in no significant adverse effect on the character or appearance of the surrounding area.

Living conditions

Occupiers of neighbouring dwellings

9. Due to the constraints of the site, the proposed dwelling would inevitably be close to its boundaries with surrounding properties, notably Nos 13 and 15, would be exacerbated. Although there is some mature vegetation beyond them, the outlook from the rear of these properties is relatively open. In my judgement, the situation of a two-storey dwelling in such close proximity to the rear of Nos 13 and 15 could not fail to compromise this outlook, appearing overbearing upon it from both the dwellings and their rear amenity areas. Similarly, the appeal scheme, which would be located tight to the public

footway, would be separated from Nos 9 and 11 by only the narrow width of the cul-de-sac. It would be a dominant and oppressive feature in what is currently an open outlook over the street, appeal site and rear gardens beyond, from the front of these dwellings.

10. In addition, the appeal scheme would have a window in its southern elevation, to a bedroom, directly overlooking the rear amenity areas of Nos 17 and 19 Park View (Nos 17 and 19) from a short distance away. This would, in my judgement, significantly compromise the privacy of the users of these spaces.
11. The appellant has suggested a significant alteration to the cill height of the first floor bedroom window on the south elevation of the proposed dwelling as a means of mitigating any adverse impact on the privacy of neighbours at Nos 17 and 19. In order to ensure that this takes place, the appellant has stated that a suitably worded condition could be imposed. I acknowledge the appellant's view that such an alteration would not adversely affect sunlight and daylight levels reaching the bedroom and that it may mitigate the adverse impact on privacy noted above. However, I am not persuaded that a bedroom, in which future residents may spend reasonable amounts of time, would provide satisfactory living conditions if the only windows were at or above adult head height.

Future residents

12. Nos 13 and 15 both overlook the appeal site at close quarters. In this context, the proposed amenity space would, in my judgement, be significantly compromised in terms of its privacy. This would impact upon its usability, which would be further adversely affected by the oppressive two-storey presence of Nos 13 and 15 looming over it. It may be that the amenity space would meet the requirements of the appellant and his family, but the development would be permanent and I must consider whether it would provide adequate living conditions for all future occupiers.
13. Consequently, I conclude that the proposal would have an adverse impact on the living conditions of the occupiers of neighbouring dwellings and would fail to provide appropriate living conditions for future occupiers, with regard to privacy and outlook. As a result, it would be contrary to Policies D2 and BE12 of the UDP. Amongst other matters, these policies seek to ensure that development is of a high design quality which does not harm the residential amenity of nearby or future occupiers and provides appropriate and sufficient amenity space around buildings.

Other Matters

14. The appellant has referred to a residential scheme (Application Ref: 2015/62/92387/W) approved by the Council which, the appellant states, has similarities to the appeal proposal. Whilst I note that there are similarities, such as the building to plot ratios on the sites, there are also several differences in terms of style, type and density of development surrounding the site and the site contexts. I give it little weight as a comparable example.
15. The appellant has pointed out that the distances between properties are within standards that have been previously accepted by the Council in earlier proposals. Whilst this may be so, I must assess the proposed scheme on its own merits in relation to the evidence before me at this time.

Conclusion

16. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Andrew McCormack

INSPECTOR