
Appeal Decision

Site visit made on 21 March 2017

by Andrew McCormack BSc (Hons) MRTPI

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

Decision date: 25 May 2017

Appeal Ref: APP/Z4718/W/16/3166078

Holmfield, Clayton West, Huddersfield HD8 9LY

- 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 Stephen Cosgrove against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/92432/E, dated 11 July 2016, was refused by notice dated 30 September 2016.
 - The development proposed is the demolition of existing single storey garage block on the site comprising 4no garages and the erection of a two storey dwelling on land at Holmfield, Clayton West, Huddersfield.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council has referred to Policy NE9 of the Kirklees Unitary Development Plan (the UDP) in their reasons for refusal. However, the Council has not submitted a copy of the policy to the appeal. Notwithstanding this, I am aware of the policy and its content due to the undertaking of other casework in the local planning authority area. As a result, I have referred to Policy NE9 in my decision. Given that Policy NE9 was referenced in the Council's reasons for refusal and that the appellant was aware of its inclusion as such in this appeal, I consider that the appellant would not be prejudiced by reference to the policy in my decision.

Main Issues

3. The main issues are the effect of the proposed development on the:
 - character and appearance of the surrounding area, including the protected trees to the north of the site; and
 - living conditions of neighbouring occupiers with regard to outlook, daylight and sunlight and future occupiers with regard to private outdoor space.

Reasons

Character and appearance

4. The appeal site is a narrow area of land to the north of Holmfield. There is a single-storey garage block on the appeal site which is in a poor state of repair.
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The western part of the site is overgrown and was previously used as an allotment garden. There are mature trees close to the northern boundary of the site, some of which are the subject of a tree preservation order. To the north is 33a Church Lane (No 33a) which is a single-storey dwelling set on lower ground to the appeal site. To the south are several single-storey properties which are on higher ground. To the east is a two-storey residential property of stone construction and access to the appeal site is principally via Holmfield from the east.

5. The proposal would extend to effectively the full width of the site and trace the footprint of the existing garage building. It would be positioned close to the northern, eastern and southern boundaries of the site. As a result, it would fail to meet the required 1.5 metre distance from the eastern and northern site boundary as set out in Policy BE12 of the UDP. As a result, the dwelling would appear cramped within its setting due to the space constraints of the site.
6. There is a variety of property styles within the immediate area of the site. However, the design of the proposed dwelling would introduce another style into the area. The split level dwelling would stand adjacent to an existing two-storey detached property. Due to the site constraints, the scale of the proposed dwelling would be less than the adjacent property and would result in the dwellings height would reduce twice to 1.5 storeys. The reduced scale of the proposal, relative to other two-storey properties in the area, would highlight the size and site constraints of the scheme. This, in tandem with the dwelling being built so close to site boundaries, would result in a cramped form of development and appear as an overdevelopment of the site.
7. The appellant has sought to address overlooking and privacy constraints by proposing no windows in the front and rear elevations of the 1.5 storey part of the dwelling. Whilst this would remove the requirement for a 21 metre distance between any proposed habitable room windows and No 5 Holmfield, it would result in a 5.5 metre high blank wall facing the streetscene. This would have a detrimental effect and would be out of keeping with the character and appearance of the locality.
8. The land at the western end of the appeal site is proposed to be paved to provide off-street parking, a small patio area and bin storage to serve the dwelling. Notwithstanding this, given the space constraints and narrowness of the site and based on the evidence before me, I find that cars would only be able to be parked on the site 'in-line' with the property. As a result, a significant part of the available outdoor space would need to be retained for parking and manoeuvring vehicles. This would leave a very small area of hardstanding for outdoor amenity space. From what I have seen and read, I find that this supports the view that the proposal would be an inappropriate overdevelopment of the site.
9. I now turn to matters relating to the protected trees positioned close to the northern boundary of the site. I note the proximity of the proposed dwelling, particularly the 1.5 storey element, to the trees. The Council argues that this would likely result in pressure to excessively prune or fell the trees. This would be particularly so as the scheme would have no windows in the north and south elevations of that part of the dwelling. Therefore, it would rely on rooflights to provide adequate daylight within the dwelling.

10. The appellant submitted an arboricultural report to address concerns regarding the impact on these trees and argued that the trees have reached the end of their natural growth cycle. Therefore, the appellant states that there would be no potential for the trees to reduce the amount of daylight and sunlight reaching the proposed dwelling or its outside space.
11. As the trees are to the north of the site, I find that their impact on sunlight would be limited. However, I note that the crowns of the trees would overhang the proposed dwelling and its outdoor space. I find that this would result in some adverse impact on the level of daylight reaching the dwelling, particularly given that the principal source of daylight for a significant part of the building would be through rooflights.
12. The arboricultural report indicates that the protected trees would not be significantly harmed by the proposal. Notwithstanding this, I note that the proposed dwelling would encroach on the identified root protection area (RPA) of one of the trees (T1) and that the hardstanding proposed for the outdoor space and parking area would be within the RPA of all three trees (T1, T2 and T3). Furthermore, the proposal would be constructed within the crown spread of the nearest tree (T1).
13. I appreciate that the above impacts could be mitigated by planning conditions. Nonetheless, I find that matters such as the overhanging of the trees and their position in relation to the proposed dwelling would increase pressure to extensively prune or fell the trees regardless of whether they had reached the end their natural growth cycle. In the event of the trees being extensively pruned or felled, which I consider to be likely as a result of the proposed development, I find that there would be a significant adverse effect on the character and appearance of the area.
14. Consequently, I conclude that the proposal would have a significant detrimental effect on the character and appearance of the surrounding area, including the protected trees adjacent to the site. It would therefore be contrary to Policies D2, BE1, BE2, BE12, T10 and NE9 of the UDP and the relevant guidance within the National Planning Policy Framework (the Framework). Amongst other matters, these policies and guidance seek to ensure that development respects and has no significant adverse effect on the character and appearance of its surroundings, including any mature trees.

Living conditions: neighbours

15. I note that the proposed development would be to the south east of the dwelling at 33a Church Lane (No 33a). No 33a is situated on significantly lower land than the appeal site. The existing garage block on the appeal site is single storey and as such its impact on the occupier of No 33 is limited in terms of overshadowing and appearing overbearing. However, I note that the existing protected trees, which are within the garden area of No 33a, would have a significant overshadowing effect on No 33a and its occupier.
16. From what I have seen and read, the overshadowing effect of the proposed development on No 33a would only extend to a limited part of its garden area, close to the garage serving No 33a. Notwithstanding this, I find that the proposal would have a significant adverse impact on the amount of natural daylight and sunlight reaching the dwelling at No 33a, particularly in the morning. As I noted during the site visit, the part of the dwelling at No 33a

most affected would be a habitable room used at the south end of the property. The overshadowing resulting from the proposal would be particularly felt by the occupier given that the dwelling at No 33a is overshadowed by the protected trees for much of the rest the day.

17. With regard to the proposal being overbearing and its effect on the outlook of the occupier at No 33a, I find that the positioning of the 1.5–2 storey dwelling coupled with a blank stone wall elevation facing the garden area and dwelling at No 33a would have a significant effect on outlook. The garden area of No 33a is between 1–1.5 metres below the appeal site. In my view, the cumulative effect of the above would result in an undue sense of enclosure for the occupier of No 33a when viewing the site from the nearest windows of the property. This was reinforced by what I saw from inside No 33a during my site visit. The elevated nature of the site, the proposed height of the dwelling, the blank facing elevation and its proximity to the dwelling at No 33a would result in the proposed dwelling appearing substantially overbearing to the occupier at No 33a.
18. There is some existing impact on the outlook of the occupier of No 33a as a result of the existing garage block on the appeal site. However, as the garage is a single-storey structure with a shallow sloping roof, I find that the proposed dwelling would be significantly higher than the garage block and therefore would have a greater adverse impact on the outlook of the occupier of No 33a. Moreover, I find that the adverse impact of the proposed scheme would only be exacerbated by its elevated position. Therefore, the cumulative impact of the above would have a significant detrimental effect on the outlook of the occupier of No 33a and would appear unduly overbearing.

Living conditions: future occupiers

19. The proposal identifies an area of hardstanding which would provide some private outdoor space for its occupiers and would be shared with an area for the parking and manoeuvring vehicles on the site and an area for bin storage. Due to the space constraints of the site and its narrowness, I note from the submitted drawings that much of this outdoor space would be taken up by the parking and moving of vehicles. As a result, I find that there would be limited useable space for the outdoor enjoyment of future occupiers. Whilst I appreciate the appellant's points that the proposed dwelling would be suited to one or two occupants or possibly a small family, I find that the small amount of useable private outdoor amenity space would not be adequate or satisfactory in meeting the needs of future occupiers and would therefore have a detrimental effect on their living conditions.
20. The appellant states that this part of the appeal site has previously been used as an allotment and as such enjoyed direct sunlight for a sizeable portion of the day. Whilst this area may enjoy some direct sunlight, from my observations, I find that the overhanging trees may become bothersome for future occupiers in terms of limiting daylight into the proposed property through rooflights. Furthermore, I find that such impacts would contribute to the likelihood of increased pressure to significantly prune or fell the nearby protected trees.
21. Consequently, I conclude that the proposed development would have an adverse impact on the living conditions of neighbouring occupiers with regard to outlook and daylight and future occupiers with regard to inadequate private outdoor amenity space. Therefore, it would be contrary to Policies D2 and BE1

of the UDP as well as a core planning principle set out in the Framework, which states that a key aim of planning is to secure a good standard of amenity for all existing and future users of land or buildings. Amongst other matters, these policies and guidance seek to ensure that development is not detrimental to neighbouring or future occupiers with regard to outlook, daylight and sunlight.

Other Matters

22. The highways authority initially raised no objection to the proposed scheme. However, I note that concerns were subsequently raised during the application process relating to access and the movement of vehicles into and out of the site. The Council states that further information regarding swept paths was requested by the highways authority in order to demonstrate that the turning manoeuvres can be satisfactorily achieved. However, as the application was recommended for refusal, the appellant was not asked for such information. Notwithstanding this, these matters are not before me in this appeal. As a result, I have not considered them any further. However, in any event, I find that the outcome of my consideration of such matters would have no material effect on my overall decision.

Conclusion

23. I appreciate that the proposal would create a new dwelling in a sustainable and accessible location and improve the visual amenity of the site by using materials which would be in keeping with adjacent buildings. Furthermore, it would provide a more readable end to the row of properties on the north side of Holmfield. Notwithstanding this, having due regard to the evidence before me, I find that the benefits of the proposed development, when considered individually and cumulatively, would not outweigh the harm I have identified.
24. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Andrew McCormack

INSPECTOR