
Appeal Decision

Site visit made on 5 June 2017

by Gwyn Clark BSc DipTP MRTPI

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

Decision date: 13 July 2017

Appeal Ref: APP/Z4718/W/17/3171874

Land to rear of 114 West Royd Avenue, Mirfield WF14 9LE

- 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 M Brooke against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/90012/E, dated 23 December 2016, was refused by notice dated 28 February 2017.
 - The development proposed is formation of single storey detached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the formation of a single storey detached dwelling on land to the rear of 114 West Royd Avenue, Mirfield WF14 9LE in accordance with the terms of application Ref 2017/62/90012/E, dated 23 December 2016, subject to the attached schedule of conditions.

Main Issues

2. The main issues are:
 - The effect of the proposal upon the character and appearance of the area with regard to the scale, design and layout of the proposed dwelling
 - The effect of the development upon the living conditions of neighbours with regard to outlook, an overbearing effect and overshadowing.

Reasons

Effect upon the character and appearance of the area

3. The houses and bungalows found on this part of Lee Green and West Royd Avenue all back onto one another with the appeal site located at the centre. A short row of traditional terraced houses lead toward the appeal site from Pratt Lane and next to the terrace at some point an additional modern dwelling, 9A Pratt Lane, has been added as an infill. This creates a rather disjointed setting.
4. The wide variety of style of dwellings found in the area surrounding the appeal site has already been commented upon by both parties and by previous appeal Inspectors¹. This mixed character comprises the traditional terraced row and more modern detached two storey houses and bungalows, including the new

¹ Appeal Ref APP/Z4718/W/15/3133151 and APP/Z4718/W/16/3148709

house granted planning permission to replace the existing bungalow 114 West Royd Road.

5. Pratt Lane is a traditional terraced row constructed in stone. The other properties are constructed in a mix of stone, brick and render. They mainly feature dual pitched roofs however roof forms also display a variety of style with differences found in the angle of pitch, in shape and materials used. Adding to this mix No 9a Pratt Lane, 'Freshfields' and No 116 West Royd Avenue all have flat roofed attached garages. There is also a variation in garden shape and sizes.
6. The dwelling proposed would sit centrally within the appeal site and would be afforded a reasonable area of useable amenity space, both to the front and rear. It would have a garden of broadly similar size to that of its neighbours and would be proportionate to the size of dwelling proposed. I therefore consider that in terms of scale, density, and layout the dwelling would not appear out of character or constitute an over-development of the site and so would meet the aims of Policy D2 and BE2 of the 2007 Kirklees Unitary Development Plan (KUDP) in this regard.
7. In terms of its appearance the proposed dwelling has been designed in a quite distinctive manner unlike any of the surrounding and more traditionally constructed dwellings. At its most basic level it has been described as 'a fully rendered box like structure with a mono pitched roof which is akin in appearance to an outbuilding'. It is necessary to consider whether the structure constitutes a good quality design, creates or retains a sense of local identity and is visually attractive, as required by Policy BE1, and also whether it is in keeping with surrounding development in respect of design, materials, building mass and height, as required by Policy BE2 of the KUDP.
8. It is without doubt a simple structure. A distinctive feature of its design is the absence of a conventional roof. However flat roofed structures are a part of the character of this local area. The dwelling would be mainly rendered. Several of the neighbouring dwellings feature a rendered finish used in combination with brick or stone. The design itself is not displeasing. In particular the extended height vertical windows on the front elevation present an attractive feature in combination with the simplicity of the overall design. Consequently within this context I find it would meet the requirements of Policy BE1 and BE2 of the KUDP.
9. The dwelling has been designed with an aim towards meeting the 'Passive House' standard and whether or not this is achieved it would have very low energy demands. This would meet aspects of Policy D2 and BE1 of the KUDP in terms of energy efficiency.

Effect upon the living conditions of neighbours

10. The site is uneven but generally slopes upwards towards Pratt Lane. In order to facilitate the development the ground would be levelled and in the process the ground level reduced. In addition the entire site except where bounded by existing high stone walls would be fenced using close boarded timber fencing. The new dwelling would stand closest to No 9 Pratt Lane but separated by an existing wall and set at an oblique angle. I consider that due to the low height of the proposed dwelling, its orientation and the distance between, that the occupiers of No 9 would not to be adversely affected to any significant extent.

11. There is general compliance with minimum separation distances contained within policy BE12. Therefore I do not consider the dwelling would have an adverse impact upon neighbours as a result of an overbearing effect, loss of outlook or overshadowing. I particularly note that the minimum separation distances given in Policy BE12 would apply to development of more than one storey and I conclude that the proposal complies with Policies D2 and B12 of the KUDP.

Other matters

12. At the request of the appellant I visited other sites in the local area where 'back land' development has taken place but found these to be of little relevance except to show that a different approach can be taken to meet a particular circumstance. What is appropriate in one situation may not be in another.

Conditions

13. I have attached conditions that generally follow those suggested by the local planning authority and I have added a specific condition in respect of finished floor levels (condition 11), reflecting the reduction in ground level shown in the application.
14. Conditions 1 and 2 are needed in the interest of clarity; Conditions 3, 4, 10 and 11 in order to safeguard the character of the area and residential amenity; Conditions 5, 6 and 7 in the interest of highway safety; Condition 8 in order to ensure that site can be satisfactorily drained; and Conditions 9 in order to promote low emission modes of transport.

Conclusion

15. Having regard to the unique characteristics of this site I consider that the development does meet the terms of Policies D2, BE1, BE2 and BE12 of the KUDP and I allow the appeal and grant planning permission. I do so attaching conditions found in the Annexe to this decision.

Gwyn Clark

INSPECTOR

Annexe to Appeal Reference APP/Z4718/W/17/3171874

Conditions Schedule

1. The development shall be begun not later than the expiration of three years beginning with the date on which permission is granted.
2. The development hereby permitted shall be carried out in complete accordance with the plans reference 16-011-149, 16-011-150, 16-011-151, 16-011-152, and 16-011-155 except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
3. Samples of all facing and roofing materials shall be inspected by and approved in writing by the local planning authority before works to construct the superstructure of the dwelling commence. Thereafter the dwelling shall be constructed of the approved materials and be retained.
4. Notwithstanding the details and specifications on Plan Ref 16-011-150 and prior to the first occupation of the dwelling a scheme detailing the boundary treatment of the entire site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the dwelling shall not be first occupied until the works as approved have been completed and thereafter shall be retained.
5. All areas to be used for parking and turning shall be laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or any successor guidance before the dwellings are first occupied. Thereafter these areas shall be retained free of any obstruction.
6. Nothing shall be permitted to be planted or erected within a strip of land 2.4m deep measured from the carriageway edge of West Royd Avenue along the full frontage of the site which exceeds 0.9m in height above the level of the adjoining highway.
7. Notwithstanding the submitted plans, a plan detailing the internal turning facilities using swept paths shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure of the dwelling commence. Thereafter the internal turning facilities shall be provided in accordance with the approved details and thereafter retained.
8. A scheme demonstrating an adequately designed soakaway for an effective means of drainage of surface water shall be submitted to and approved in writing by the Local Planning Authority before works to construct the foundations of the dwelling commence. The scheme shall include percolation tests in accordance with BRE Digest 365 along with calculations demonstrating that the designed soakaways can store a critical 1 in 30 year storm event and can empty by 50% within 24 hours. The dwelling shall not be first occupied until the works comprising the approved scheme have been completed and shall be retained thereafter.

9. Prior to first occupation of the dwelling an electric vehicle recharging point shall be installed. Cable and circuitry ratings shall be provided to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. Thereafter the electric vehicle recharging point so provided shall be retained.

10. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification) no development included within Classes A, B, C or E of Part 1 of Schedule 2 to that Order shall be carried out.

11. Prior to the commencement of development a plan showing the finished floor level of the dwelling, consistent with cross sections on Drawing Reference Number 16-011-152, shall be submitted to and approved in writing. The dwelling shall be constructed to the finished floor level as approved.

END