The Planning Inspectorate

Appeal Decision

Site visit made on 10 May 2019

by R Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 July 2019

Appeal Ref: APP/Z4718/W/19/3223233
33 Woodside Lane, Fixby, Huddersfield HD2 2HA

- 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 Mehat against the decision of Kirklees Council.
- The application Ref 2017/62/93544/W, dated 13 October 2017, was refused by notice dated 22 August 2018.
- The development proposed is erection of 5 detached dwellings and garage ancillary to 33 Woodside Lane.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development from the Council's Decision Notice in the banner heading above as this was agreed by the parties.

3. Since the application was determined by the Council, the Kirklees Unitary Development Plan has been replaced by the Kirklees Local Plan (February 2019). The policies relevant to this appeal have not altered substantively since the Publication Draft referenced in the Council's Decision Notice. I have therefore considered this case against the policies of the adopted Local Plan.

Main Issues

4. The main issues are the effect of the proposed development on a) the character and appearance of the host dwelling and surrounding area; b) highway safety; c) protected trees; and d) bats as a protected species.

Reasons

Character and appearance

5. The appeal site is formed of 33 Woodside Lane (No 33) a large detached house set in substantial grounds. No 33 and adjoining 25 and 27 Woodside Lane are characterised by large houses with spacious plots and a wooded setting. It is proposed to construct five new houses sited around No 33 and a detached garage for the existing house. This would inevitably reduce the size of the plot for No 33, and although it would still be set in the formal gardens, the siting of the proposed houses on three sides of No 33 results in the loss of its spacious character. No 33 would appear part of a new close knit cul-de-sac. This would both cause harm to its setting and be out of character with its surroundings.

6. Whilst I note that Nos 1 to 21 Woodside Lane have less substantial plots than No 33 they nonetheless have a spacious character and benefit from very generous front and back gardens. The proposed houses are large, set on comparatively small plots. The result of this for Plots 3, 4 and 5 are little or no gardens to the front and small gardens to the side and rear. This would be at odds with the prevailing character of Woodside Lane. Although due to the bend in Woodside Lane, the site is not visible within the street scene it would be visible from the bridleway in the adjacent woodland which is slightly elevated. From here, the development would appear cramped.

7. I recognise that the appeal site is close to development of higher or similar density to that proposed. However, I saw from my site visit that these developments, notably The Ghyll and Beechwood Grove, which are closest to the site, are quite different in character to Woodside Lane forming part of a larger housing development. In contrast, Woodside Lane is a single residential lane that adjoins woodland and is therefore quite separate from surrounding development. It is therefore appropriate to assess the proposal within its immediate character context, rather than this wider development.

8. To accommodate the proposed houses, around twenty trees would need to be removed. Although these trees vary in quality and the trees on the boundaries of the appeal site have been retained where possible, they nonetheless positively contribute to the wooded or Sylvan character of Woodside Lane. The loss of such a large number of trees would cause harm to that character.

9. For the reasons above, I find the proposed development would cause significant harm to the character and appearance of the host dwelling and surrounding area. It would therefore conflict with Policy LP24 of the Kirklees Local Plan (2019) (LP) because its scale and layout fails to respect and enhance the character of the townscape. Further, it would be contrary to guidance at paragraph 130 of the National Planning Policy Framework (the Framework) that development should take the opportunities available for improving the character and quality of an area.

Trees

10. There is a group of mixed trees, including Sycamore and English Oak, located just outside the appeal site between its boundary and the access to 25 Woodside Lane. These trees are subject of a Tree Preservation Order (TPO). They have a high amenity value and are particularly prominent from the bridleway in the adjacent woodland. The Arboricultural Impact Assessment submitted as evidence by the appellant shows the canopy spread of these trees extends a reasonable distance into the site. I also saw on my site visit a number of branches of these trees overhanging the boundary.

11. Plots 4 and 5 would be located close to the canopy spread of the protected trees and large parts of the gardens would be shaded by them, as well as others on site. The gardens are small relative to the size of the proposed houses and because of this and the likely shading, there would be pressure from occupiers to prune or fell the trees in the future to make the gardens more usable. This would cause harm to the wooded character I describe above.

12. Whilst I note that Plot 3 of the three house scheme approved by the Council (ref. 2018/93212) is in broadly the same location as Plot 4, it would benefit

from a substantially larger garden. It would be the equivalent in size to Plot 5 now proposed. The result of this is much more garden area unaffected by the tree canopies and therefore less pressure to prune or fell the protected trees on the boundaries.

13. For the reasons above, I find the proposed development would cause risk to the longevity of the trees subject of a TPO resulting in harm to the character and appearance of the area. The proposed development would therefore conflict with LP Policy LP33 because it would directly threaten trees or woodland of significant amenity value.

Highway safety

14. Access to the proposed houses would be from Woodside Lane, a quiet residential lane which is also the route of two bridleways. The Transport Statement submitted with the application assessed a six house scheme and demonstrated that there would be just five two-way trips associated with the development in the morning and evening peaks. In the absence of any contrary evidence, I have no reason to dispute these figures and I note that Highways Development Management had no objection to the principle of the development.

15. Even with an additional house, whilst there would be some intensification in use, the trip generation is low and given the good visibility along its length there would be no harm to the safety of pedestrians or vehicles using Woodside Lane. The proposed development would not therefore conflict with LP Policy LP21 or paragraph 109 of the Framework because it provides a safe and suitable access to the site.

Bats

16. The appeal site is adjacent to Upper Fell Greave Ancient Woodland connected to the site by hedgerows and mature trees. Transect Surveys, as part of the Ecological Impact Assessment (EIA), were undertaken on behalf of the appellant during September 2017 and August and September 2018. These identified common pipistrelle bats mainly foraging along the boundary tree canopies and hedgerows. Further, No 33 has a confirmed bat roost and the EIA advised that the development of Plot 4 would have an impact on existing flight lines without any mitigation.

17. The EIA recommended a number of mitigation measures including a buffer zone between the woodland and the nearest house; in this case Plots 4 and 5. It was recommended that the buffer zone covered the tree protection areas of the largest trees in order to retain the ecological function of the woodland edge. For the reasons I set out above, I have found the proposed houses would risk the longevity of the trees on the boundary with the woodland. I am not therefore persuaded on the evidence before me that the potential significant harm to bats, a European Protected Species, can be adequately mitigated in this case. As a consequence, the proposed development would conflict with LP Policy LP30 and paragraph 175 of the Framework which requires no significant loss or harm to biodiversity through avoidance, adequate mitigation or, as a last resort, compensatory measures.

Other Matters

18. The Council accepts that it is not able to demonstrate a 5-year supply of deliverable housing sites. This represents a housing shortfall. In such circumstances, paragraph 11 of the Framework indicates that housing policies should be regarded as out of date and that there is a 'tilted balance' in favour of granting permission. I acknowledge that provision of five detached dwellings contributes to the supply of housing. However, the contribution in this case is modest and my finding is that the harm to the character and appearance of the area, protected trees and bats would significantly and demonstrably outweigh the titled balance in favour of granting permission.

Conclusion

19. Although I find no harm to highway safety, I do find harm in respect of the other main issues. Therefore, for the reasons above, and having regard to all other matters raised, the appeal should be dismissed.

R. Jones

INSPECTOR