
Appeal Decision

Site visit made on 11 December 2018

by D Child BA BPL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 August 2019

Appeal Ref: APP/Z4718/W/18/3213672

Plots 34 to 37, Land off Vicarage Road adjacent to No 311, Longwood, Huddersfield HD3 4HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Anthony Dann of I.E.S. Management Ltd against Kirklees Metropolitan Borough Council.
 - The application, Ref 2018/92381, is dated 19 July 2018.
 - The development proposed is erection of 4 dwellings on plots 34 to 37.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of 4 dwellings on plots 34 to 37 at land off Vicarage Road adjacent to No 311, Longwood, Huddersfield HD3 4HJ, in accordance with the terms of the planning application, Ref: 2018/92381, dated 19 July 2018, subject to the conditions set out in the schedule below.

Procedural Matters

2. The appeal results from the Council's failure to reach a decision on the information submitted by the appellant. There is therefore no formal decision, as jurisdiction over that was taken away when the appeal was lodged. However, the Council has provided a statement which confirms it would have approved the application.
3. The Council has confirmed that on 27 February 2019 it adopted the Kirklees Local Plan (the Local Plan), replacing the saved policies of the Kirklees Unitary Development Plan (March 1999). I shall proceed to consider the appeal on this basis.
4. In their submission the Council refers to the National Planning Policy Framework published in February 2018. However, as policies of the Framework that are material to this case have not changed fundamentally, I have had regard to the revised Framework (the Framework) in reaching my decision.
5. From the evidence before me, there are no substantive grounds of dispute between the appellant and the LPA. But there is concern from a neighbour about the effect of the development on the privacy of the occupants of neighbouring dwellings, and, logically therefore, that of future occupants of the development, and this therefore forms the main issue to be considered.

Background

6. The appeal site forms part of a larger area of land that received outline planning permission for residential development in 1993¹. Following a subsequent approval², an access road has been partially constructed and a number of dwellings built out opposite the appeal site. Some groundworks involving importation and compaction of fill, and some drainage works, have also been carried out.
7. Planning permission was subsequently granted for the erection of four dwellings on the appeal site³. Conditions of that permission were the subject of an appeal⁴ under which they were varied. The application details describe an amended siting of dwellings on plots 36 and 37, in order to allow parking in front of the houses, and, so as not to impede the public footpath.

Main Issue

8. The main issue is the effect of the proposal upon the living conditions of the occupants of neighbouring dwellings and future occupiers of the proposed development, having particular regard to privacy.

Reasons

Living conditions

9. The Council has assessed the application in relation to the privacy of neighbouring residents, and, raises no objection. From the plans before me and what I saw during my visit, I see no reason to disagree. The nearest neighbouring dwellings are located to the southeast of the appeal site fronting Vicarage Road. Due to the slope of the land, the proposed layout and the separation distances between existing and proposed dwellings, the scheme would not cause any unacceptable harm to the privacy of the occupants of neighbouring dwellings, or future occupiers of the development.
10. Accordingly, the proposed development would comply with Policy LP24 of the Local Plan, which, amongst other things, requires that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers. It would accord with Paragraph 127(f) of the Framework, which states that planning decisions create places with a high standard of amenity for existing and future users.

Other Matters

11. A resident has commented that there is a public footpath adjacent to the site that needs to remain in place. From the plans before me, it would be retained. Planning permission does not alter the status of the footpath, any diversion of which would be through other statutory processes.
12. There are several mature trees above the site, to the north, beyond the adjacent footpath. The Council in its statement has not raised any objection in this regard. Due to the difference in land levels and the amount of physical

¹ Local Planning Authority reference 89/00587

² Local Planning Authority reference 94/93648

³ Local Planning Authority reference 2013/90795

⁴ Appeal Reference: APP/Z4718/A/14/2216452

separation between the trees and the nearest dwelling, the proposed development would not place any undue pressure on their health.

Conditions

13. I have considered the Appellant's comments on the Council's recommended conditions, and the earlier appeal decision.
14. A 3-year time limit for commencement condition is necessary, and, to provide certainty, the approved plans, which include those relating to levels, need to be specified. While I note the appellant's comments, I agree with the Inspector's earlier reasoning that conditions remain necessary to ensure that the development is appropriately drained, to prevent flooding and pollution, and to ensure that the site is free from contamination.
15. Conditions are necessary to require landscaping details and their implementation, and, in the interest of protecting the visual amenity of the area, conditions are necessary to specify the external facing and roofing materials and the boundary treatment to be used.
16. There is no clear justification for the removal of permitted development rights. However, to ensure the development accords with Local Plan Policy L24(d)(v) and Paragraph 110(e) of the Framework, I agree with the Council that a condition is necessary to require charging facilities for plug-in ultra-low emission vehicles.

Overall Conclusion

17. For the above reasons, the appeal should succeed, and planning permission should be granted subject to the specified conditions.

D Child

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun within three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in strict accordance with the following approved drawings: 'Site Layout and Location Plan' 701.H; 'Phase 2 Site Layout' 701/29HB; and 'Planning Drg. Modified House Types (Plots 34, 35, 36 & 37)' 2012/008/02 Rev A.
- 3) Development shall not begin until details of the proposed means of foul and surface water disposal have been submitted to, and approved in writing by, the local planning authority. The approved details shall be implemented in full before any of the dwellings are occupied, or in accordance with a phasing scheme agreed in writing by the local planning authority as part of the approved details.
- 4) Development shall not begin until a report of an investigation into potential contamination of the site, and of any imported fill material to be brought onto the site, along with any necessary remediation measures, has been submitted to, and approved in writing by the local planning authority. None of the dwellings hereby permitted shall be occupied until the approved measures have been implemented in full.
- 5) Development shall not begin until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained, and set out measures for their protection throughout the course of development.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s), or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) Prior to first occupation of any of the hereby approved dwellings an electric vehicle charging point shall be installed to serve one of the parking spaces to each of the dwellings. 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 charging points so provided shall be retained.
- 8) The development shall not be brought into use until all areas indicated to be used for parking on the submitted plan 701/29HB have been marked out, and laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or any successor guidance. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) these areas shall be so retained, free of obstructions and available for the use specified on the submitted plans and retained thereafter.

9) Details of the siting, design and materials to be used in the construction of walls or fences for boundaries, screens or retaining walls shall be approved in writing by the Local Planning Authority before any of the hereby approved dwellings are first brought into use. The approved walls/fences shall be erected before the development hereby approved is occupied or brought into use and shall be thereafter retained.

10) The external walls and roofing materials of the hereby approved dwellings shall in all respects match those used in the construction of 303-311 Vicarage Road, or, alternatively, samples of all facing and roofing materials shall be inspected on site and approved in writing by the local planning authority before the materials are first used, and the development shall be implemented using the approved materials.