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## Appeal Decision

Site visit made on 26 November 2019 by L Wilson BA (Hons) MA

### Decision by Zoe Raygen Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

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### Appeal Ref: APP/Z4718/D/19/3237184

### Brigsteer, 402 Birkby Road, Birkby, Huddersfield, HD2 2DN

- 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 Shahzad Akhtar against the decision of Kirklees Metropolitan Council.
  - The application Ref 2019/62/91842/W, dated 21 June 2019, was refused by notice dated 16 August 2019.
  - The development proposed is the erection of a garage.
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Procedural Matters

3. The appellant stated on the appeal form that the proposed floor space of the garage would be 31 square metres. The appellant has confirmed that this is incorrect and that the proposed garage would measure 8.5 x 6.9 metres with a floor space of 58.65 square metres.

### Main Issue

4. The effect of the proposed garage on the character and appearance of the street scene.

### Reasons for the Recommendation

5. Brigsteer is a relatively new, substantial detached dwelling which has been extended. The appeal site is located next to the Church of Jesus Christ of Latter-Day Saints. Within the street scene are mainly large detached two-storey dwellings, set back from the highway, enclosed by high boundary walls and hedges.
6. Brigsteer sits higher than the highway and although the boundary treatment, namely the fence, hedge and retaining wall, partially screen the site, the first floor is particularly visible. The Council states that Brigsteer's porch has an overall height of approximately 3.7 metres which has not been disputed by the

appellant. This provides a useful comparison as the garage would have an overall height of approximately 4.3m.

7. The appellant has submitted massing images to demonstrate that the garage would not be seen from the highway. At my site visit, I observed that a greater proportion of the dwelling is visible from Birkby Road than what is shown on the massing images. Therefore, I am not convinced that they show a true reflection of the site. Furthermore, they only show the site from one viewpoint.
8. It is understood that the proposal has been amended to reduce its impact upon Birkby Road, and a planning officer had implied that a standard double garage would be acceptable. The appellant has calculated the percentage plot coverage in comparison to No 408. However, whilst the garage would not be disproportionate to the size of the plot, it would be very large with considerable bulk, and would be situated to the south eastern corner of the site, forwards of the host property. A drawing showing the finished floor levels of the garage has not been included and therefore I am not satisfied that the existing or proposed boundary treatment would screen the garage because of its width, height and siting. Accordingly, given my misgivings regarding the massing images based on my observations on site, I am of the view that the garage would be harmful to the character and appearance of the street scene due to its scale and massing.
9. It has been drawn to my attention that the site is subject to a Compulsory Purchase Order (CPO). I have had regard to the submitted drawings and the appellant's statement which detail the impact of the highway improvements upon the scheme, including new boundary treatment. However, whether the CPO goes ahead or not, the proposal would result in a dominant domestic building sited adjacent to the highway which does not reflect the character and appearance of the area.
10. I acknowledge that there are large buildings within the street scene, including the church and Maple Garden Flats. These buildings are set back from the highway so their impact upon the street scene is limited. Whereas the scheme would be seen as a large, prominent structure within the curtilage of a residential property.
11. The appellant has highlighted other structures along Birkby Road which they consider to be similar to the proposal. I observed on my site visit that the majority of dwellings along Birkby Road are stepped back from the highway and do not have structures adjacent to the highway. There are limited examples of properties with a carport and garages adjacent to the highway. However, these are orientated so their depth is adjacent to the highway rather than the width in contrast to that proposed. As a result, these structures do not appear dominant within the street scene. Similarly, whilst the site is not within a conservation area, the use of matching materials would assist in integrating the garage within the street and the proposal would not adversely impact residential amenity or highway safety, these considerations do not overcome the adverse effects outlined above.
12. For these reasons, I find that the proposed development would be visually harmful to the character and appearance of the street scene. Consequently, the scheme would conflict with Policy LP24(a) of the Kirklees Local Plan: Strategy and Policies (2019) and the National Planning Policy Framework. Collectively

these seek, amongst other matters, to promote good design and prevent development which harms the character and appearance of areas.

### **Other Matters**

13. The site is located close to the Edgerton Conservation Area (CA). The highway provides a clear separation between the site and CA. Therefore, I too agree with the Council that the proposal would preserve the setting of the CA.
14. The appellant highlights that the accommodation would meet the needs of their family. The Planning Practice Guidance sets out that there may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission<sup>1</sup>. Personal circumstances rarely outweigh general planning considerations as the occupants of a dwelling can change whereas the development would be permanent.
15. I must have due regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010, which requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include a person's disability or age. I do not doubt that the proposals would help accommodate the needs of the family. Nonetheless, this must be balanced with the significant adverse impacts of the proposal identified earlier.
16. In support of the appeal my attention has been drawn to other developments in the vicinity. I do not have the full details of these cases and so cannot determine whether the circumstances are comparable to the scheme before me.
17. Support from residents, a tree officer and highways officer are not considerations which outweigh the harm identified above. Similarly, I recognise that a number of the objections submitted are from the same households and I have had regard only to the planning merits of the case. The investigation regarding a Councillor's objection is a matter for the Council and has little bearing on the planning merits of the case.
18. Having carefully weighed the potential benefits of the scheme, I therefore consider that dismissal of the appeal is a proportionate and necessary response having regard to the legitimate and well established planning objective of protecting the character or appearance of an area.

### **Conclusion and Recommendation**

19. For the reasons given above I recommend that the appeal should be dismissed.

*L M Wilson*

APPEALS PLANNING OFFICER

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<sup>1</sup> Paragraph: 015 Reference ID: 21a-015-20140306

**Inspector's Decision**

20. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I too agree and conclude that the appeal should be dismissed.

*Zoe Raygen*

INSPECTOR