



Appeal Decision

Site visit made on 3 December 2019

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 3 February 2020

Appeal Ref: APP/Z4718/W/19/3233349

Corby, Birkby Road, Huddersfield HD2 2DR

- 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 Armitage Developments UK Ltd. against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/62/93326/W, dated 8 October 2018, was refused by notice dated 7 June 2019.
 - The development proposed is demolition of existing dwelling and erection of 6 detached dwellings with integral garages.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The name of the applicant as stated on the application for planning permission is Armitage Developments UK Ltd, whereas the name of the appellant as stated on the appeal form is Mr S Armitage. It has been confirmed by Mr Armitage that, as Director of Armitage Developments UK Ltd, he consents for the appeal to be in his company's name. I have therefore determined the appeal on this basis.
3. During the determination of the application the proposed development was revised and the description changed to 'demolition of existing dwelling and erection of 5 detached dwellings with garages.' I have therefore determined the appeal on this basis.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the surrounding area; and
 - The effect of the proposed development on the living conditions of the occupants of adjacent properties on Inglewood Avenue, with regard to outlook, and whether the proposed development would provide acceptable living conditions for future occupants, with regard to outlook.

Reasons

Character and appearance

5. The appeal site comprises a substantial, two storey, detached dwelling, set back from Birkby Road and situated within a large landscaped garden containing mature trees, some of which are protected by a Tree Preservation Order (TPO). The appeal site is bounded to the front by a high stone wall and a wrought iron gate, and to the sides and rear by a variety of wooden fences. Access into the site is direct from Birkby Road.
6. The immediately surrounding area is predominantly characterised by low to medium density, relatively modern, residential development of large, two storey, detached properties set back from the highways within large plots, many with mature landscaping. Although there are variations in the size, scale, form and design of the dwellings, they possess some unifying features, such as projecting gables to the front, and use a similar palette of materials of stone with tile or slate roofs, which give a degree of visual harmony to the street scene. These elements combine to give the area a relatively formal character, but with a pleasing spacious and verdant appearance.
7. The proposed development comprises the demolition of the existing building on the site and the erection of five, two storey, five-bedroom, detached dwellings with garages. Plot 1 would be accessed direct from Birkby Road, whilst the other plots would be accessed via a private drive within the site. The dwellings would be faced in coursed natural stone with blue slate roofs.
8. Policy LP24(a) of the Kirklees Local Plan adopted February 2019 (KLP) promotes good design by seeking to ensure that the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape.
9. The Council has raised no issues regarding the proposed demolition of the existing building and the principle of housing development on the appeal site. Given that the existing building is not identified as being of national or local special architectural or historic interest, and that the site is, as described by the Council, unallocated land and partly brownfield land, I have no reason to disagree.
10. In addition, it is not disputed between the main parties that, in general, the detached form, design and materials of the proposed dwellings are in keeping with properties in the surrounding area. Taking into account the characteristics of development within the area, as identified above, I agree with this assessment.
11. The proposed development would introduce five substantial dwellings into the appeal site. The appellant asserts that the density of the proposed development would be 14.16 units per hectare¹ and the average built footprint to curtilage ratio of the proposed dwellings would be approximately 27%.
12. I acknowledge that the density of the proposed development would be similar to, or below that of, other developments in the surrounding area, such as plots 30-40 Inglewood Avenue (Inglewood Ave) and properties on the eastern side of

¹ Drawing Ref: 18D44-FBA-ZZ-XX-DR-A-9901-P02, Density Comparison Plan.

Prince Wood Lane, and that some of the adjacent properties on Inglewood Ave have similar built footprint to curtilage ratios.

13. However, it is noticeable that there are other developments nearby, such as Birchwood Close and on the western side of Prince Wood Lane that are of lower density per hectare and appear to be of a lower built footprint to curtilage ratio. In these respects the proposed development would not be fully in keeping with the spatial characteristics and pattern of development of the surrounding area, particularly the large curtilages to properties.
14. Moreover, even though it is contended by the appellant, that the proposed development would cover only 23% of the developable area of the site and that the bulk, scale, and massing of the proposed dwellings would be in keeping with the scale of buildings elsewhere in the area, I consider that, on balance, the number of proposed dwellings combined with their substantial size, scale and massing in relation to both the site and the plot sizes would cause them to appear cramped and inharmonious in relation to the nature and form of development within the surrounding area as a whole. The result would be dwellings which would not fully relate to, or integrate with, their context and, as such, would harm the character and appearance of the surrounding area.
15. I have had regard to the fact that Policy LP7 of the KLP includes a desired target density of 35 dwellings per hectare and that, in this respect, the proposed development would constitute a shortfall of this target. Furthermore, I am aware that Paragraph 122 of the National Planning Policy Framework (Framework) states that planning policies and decisions should support development that makes efficient use of land. However, these provisions within the KLP and the Framework both need to have regard to, amongst other factors, the surrounding area's prevailing character and appearance.
16. I am aware that the original scheme was revised in an attempt to address comments made by the Council regarding concerns about the impact of the proposed development on the character and appearance of the area. This included reducing the number of proposed plots from six to five, ensuring a minimum of 3 metres (m) between each plot, changes to plot layout and elevational treatment and amendments to the boundary wall treatments. However, these amendments are not sufficient to overcome the fundamental objections to the proposed development in relation to this main issue.
17. Accordingly, I conclude that the proposed development would have a harmful effect on the character and appearance of the surrounding area. As such, it would conflict with Policy LP24(a) of the KLP referred to above. It would also not be consistent with the objectives of Paragraph 127 of the Framework, which require development to be sympathetic to local character.
18. Although not referred to in its reasons for refusal relating to this main issue, the Council also considers that the proposed development would not comply with the National Design Guide² (NDG) which forms part of the Government's collection of planning practice guidance. Taking into account the guidance in the NDG regarding the characteristics of context, identity and built form, I concur with this conclusion.

² National Design Guide, Ministry of Housing, Communities & Local Government, October 2019.

Living conditions

19. Policy LP24(b) of the KLP seeks to ensure that developments provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings.
20. No concerns have been raised by the Council in relation to any impact on the living conditions of the occupants of residential properties to the north, east or west of the appeal site, and given the separation distances, level differences and/or treatment of any facing windows, I have no reason to disagree.
21. The proposed dwellings in plots 3, 4 and 5 would be adjacent to the rear elevations of Nos 18, 36, 42, 44 and 46 Inglewood Ave (Nos 18, 36, 42, 44 and 46). From my observations on site, Nos 42, 44 and 46 sit in a slightly elevated position above the appeal site with their outdoor amenity space sloping down towards the south western boundary of the appeal site. At present there is a low post and rail picket fence allowing clear views from the rear elevations and outdoor amenity spaces of these properties into the appeal site. Nos 36 and 18 appear to sit level with and slightly below the appeal site respectively, and vegetation currently provides some screening between these properties and the appeal site.
22. I acknowledge that the total separation distances, as stated by the Council, between the proposed dwellings and the adjacent properties on Inglewood Ave would be reasonable, and that the variation in levels and the fact that the properties would not be directly facing each other, would lessen the impact on the living conditions of the occupants of these properties, with regard to outlook, to some degree.
23. However, I consider that the separation distances between the proposed dwellings in plots 3, 4 and 5 and the adjacent properties on Inglewood Ave and from the proposed dwellings to the shared boundary, would not, with reference to Policy LP24(b), be appropriate given the context of the appeal site. This, combined with the substantial size, scale and massing of the proposed dwellings, would cause them to appear dominant and overbearing, principally when viewed from the rear outdoor amenity space, but also to some extent, when viewed from the rear habitable rooms of the adjacent properties on Inglewood Ave. This would diminish the outlook of the occupants of the adjacent properties on Inglewood Ave.
24. Furthermore, this relatively close proximity of the proposed dwellings in plots 3, 4 and 5 to the adjacent properties on Inglewood Ave, would conversely cause the adjacent properties on Inglewood Ave, particularly those in elevated positions, to appear dominant and overbearing, principally when viewed from the rear outdoor amenity space but also to some extent, when viewed from the rear habitable rooms of the proposed dwellings. This would feel oppressive and lessen the outlook of the future occupants of the proposed dwellings.
25. I am aware that the proposed development includes the erection of a 3m high, close boarded, timber fence along with mature vegetation to the south western boundary of the appeal site, which the appellant states, can be the subject of a condition not allowing its removal. However, given the height and form of the proposed fence I consider that it would add to the sense of enclosure felt by the future occupants of the proposed dwellings and reduce their outlook even further.

26. I have had regard to the fact that the appellant amended the original scheme in an attempt to alleviate the impact of the proposed development on the living conditions of the occupants of adjacent properties on Inglewood Ave and future occupants of the proposed dwellings. However, these amendments are not sufficient to overcome the overriding concerns regarding the proposed development in relation to this main issue.
27. Taking the above into account, I conclude that the proposed development would have a harmful effect on the living conditions of the occupants of adjacent properties on Inglewood Ave, with regard to outlook and that it would not provide acceptable living conditions for future occupants, with regard to outlook. As such, it would conflict with Policy LP24(b) of the KLP referred to above. It would also not comply with the objective of Paragraph 127 of the Framework, which requires development to have a high standard of amenity for existing and future users.
28. Although not referred to in its reasons for refusal relating to this main issue, the Council also considers that the proposed development fails to accord with the NDG. Having regard to the guidance within the NDG relating to the characteristic of homes and buildings, I agree with this assertion.

Planning Balance

29. I have concluded that the proposed development would have a harmful effect on the character and appearance of the surrounding area. I have also concluded that it would have a harmful effect on the living conditions of the occupants of adjacent properties on Inglewood Ave, with regard to outlook, and that it would not provide acceptable living conditions for future occupants, with regard to outlook. In this regard, it would conflict with Policies LP24(a) and LP24(b) of the KLP. I give this conflict with the development plan, and the harm that arises from it, substantial weight.
30. The proposed development would provide five new family dwellings in an accessible location within an established residential area. There would be some economic and social benefits derived from their construction and occupation. Therefore, these carry moderate weight in its favour. However, in my view, the adverse effect of the proposed development on the character and appearance of the surrounding area and in relation to the living conditions of the occupants of adjacent properties on Inglewood Ave and future occupants of the proposed dwellings, would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Other Matters

31. I have had regard to the fact that the appeal property is located just outside the boundary of the Edgerton Conservation Area (ECA) and given consideration to any impact of the proposed development on the setting and significance of this designated heritage asset. The ECA is mainly characterised by large, detached, Victorian properties, set in generous grounds with mature landscaping and strong boundary treatment in the form of stone walls, which separate the buildings from the public highways. At the outer edges and within the immediate setting of the ECA the pattern and character of development changes to mainly that of early twentieth century developments.

32. Taking into account the form, design and materials of the proposed development, I consider that it would not have a detrimental impact on the setting of, or key views into or out of, the ECA and, therefore, would not harm the setting or significance of this designated heritage asset. As such, it would not conflict with provisions within the Framework which seek to protect the significance of designated heritage assets. However, the lack of harm in this regard weighs neutrally and does not amount to a consideration in support of the appeal.
33. I am aware that, subject to the imposition of appropriate conditions, no technical objections were raised by, the Lead Local Flood Authority, Highways, the Tree Officer and the Bio-diversity Officer, and that the Council's Conservation and Design Officer raised no concerns about the proposal. Nevertheless, these are neutral considerations in the planning balance and they do not alter or outweigh my conclusion on the main issues.
34. I note that the appellant has no objection to the imposition of any conditions deemed necessary. However, this would not overcome the identified harm to the character and appearance of the area or the living conditions of adjacent neighbours or future occupants, with regard to outlook.
35. The appellant has referred to other developments in the surrounding area, and highlighted their comparative densities and built footprint to curtilage ratios. However, I am not aware of the detailed circumstances of these developments, and in any event, I have determined the appeal before me on its own planning merits.
36. I have noted that there are inconsistencies on the drawings that were submitted with the application between the Site Layout and the Plans and Elevations for the proposed dwellings of plots 1 and 3³. It is imperative that plans are accurate to avoid uncertainty about what is proposed. However, I have been able to reach a judgement on the proposed development and, as I am dismissing the appeal, it has not been necessary for me to consider the accuracy of the plans any further.
37. I note that the details of the TPO⁴ submitted by the Council as part of the appeal relates to 400 Birkby Road and not the appeal site. However, I have been able to reach a judgement on the proposed development and, as I am dismissing the appeal, it has not been necessary for me to consider this matter any further.
38. None of the other matters raised, individually or collectively, outweigh or overcome my conclusions on the main issues.

Conclusion

39. For the reasons given above, I conclude that the appeal should be dismissed.

F Cullen

INSPECTOR

³ Drawings Site Layout Ref: 18D44-FBA-ZZ-XX-DR-A-0701-P06, Plot 1 Plans and Elevations

Ref: 18D44-FBA-ZZ-XX-DR-A-0708-P01 and Plot 3 Plans and Elevations Ref: 18D44-FBA-ZZ-XX-DR-A-0710-P02.

⁴ Tree Preservation Order No 14 1982- 400 Birkby Road, Huddersfield.