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## Appeal Decision

Site visit made on 19 May 2020

**by Edwin Maund BA (Hons) MSc Dip UP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5<sup>th</sup> June 2020**

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**Appeal Ref: APP/Z4718/W/20/3244818**

**Store, Fernside Avenue, Almondsbury, Huddersfield HD5 8NR**

- 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 Richard Brown on behalf of Connah Construction Ltd against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2019/62/91617, dated 8 July 2019, was refused by notice dated 18 October 2019.
  - The development proposed is demolition of existing builders store/depot and erection of 5 dwellings and formation of new access road and parking area.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The appellant submitted a revised layout plan following the Council refusal in order to seek to resolve issues in respect of parking and highway safety. For clarity I have considered the appeal on the basis of the plans that had been put before the Council which had been the subject of publicity and consultation as to do otherwise could be prejudicial.

### Main Issues

3. The main issues raised in this case are;
  - The effect of the proposal on the character and appearance of the area specifically in respect of plots 3-5;
  - The effect on highway safety due to the level of car parking provided on site; and
  - The effect on the living conditions of neighbouring properties in Rockley Close with particular regard to outlook.

### Reasons

#### *Character and Appearance*

4. The site is an irregular shape being a gap between the rear of properties fronting three streets. It is noticeably elevated above Fernside Avenue and Bank End Lane. Currently accessed by a private lane, parallel with Fernside Avenue, which rises from the junction with the main road until it turns the

corner into the site, it is an obvious gap in the street set behind the retaining wall on the frontage. When viewed from Bank End Lane it is the trees on the site which are particularly noticeable and they make a positive contribution to the locality, standing above the properties set into the hillside.

5. Currently grassed rough ground, it is largely open with mixed mature trees on the periphery. It makes a positive contribution to the character and appearance of the area comes from the sense of space and greenery that is created particularly from the contribution of the trees.
6. The buildings around it are a variety of designs and styles, with the older properties being of stone, while the more recent development to the north and east are rendered and painted. Additionally, the roof styles vary, with the majority of properties having gables on the Fernside Avenue frontage and Rookery Close being hipped pairs of semi-detached dwellings.
7. The main parties do not differ in their view on the redevelopment of the properties on the Fernside Avenue frontage (plots 1 and 2) and I see no reason to disagree with these conclusions. However, the design of plots 3-5 is a terrace of three properties with a deep span section and steep pitched roof, which creates an imposing building of substantial scale and height on elevated ground.
8. The steep pitch of the roof increases the proportion of roof relative to the elevations and this is materially different from the properties in the area, whether they are pitched or hipped and consequently despite being viewed at a distance through the gap from Fernside Avenue, or from Bank End Lane where it would be gable end onto the street, the pitch and roof will be particularly noticeable and not be in character with the current properties.
9. I find that this would result in an incongruous appearance out of character with the locality and thus it would adversely affect the character and appearance of the area and be contrary to Policy LP24 of the Kirklees Local Plan (2019), which amongst other things aims to promote good design by ensuring the form and details of all development respects and enhances the character of the townscape.

#### *Highway Safety*

10. Policy LP22 of the Kirklees Local Plan does not set specific standards for the provision of parking for new development but anticipates that an assessment will be made justifying the approach for each individual site subject to a series of principles. These principles mirror those set out in the National Planning Policy Framework.
11. In doing so, the policy expects evidence to be provided assessing i) the availability of public transport, ii) the accessibility of the site, iii) location of the development, iv) local car ownership levels and v) the type and mix and use of the development. No information in respect of iv) has been provided from either party. As such a full assessment of what might be regarded as an appropriate level of parking for this site, or the consequent level of parking if any, that might be off set onto the street has not been explained.
12. The consultation response from the highways engineers indicates the draft guidance expects there to be three spaces for a four bedroomed property plus one visitor space per four dwellings. Since this is draft guidance only and I

have not been provided with any evidence of its status, I am unable to accord it significant weight.

13. As evidence has not been provided to demonstrate the appropriate level of parking provision for this development, I do not consider that the scheme accords with Policy LP22 of the Kirklees Local Plan (2019) which requires that full details of the design and levels of parking provision are provided to ensure that the development is achieved efficiently and encourages sustainable travel.
14. In the absence of evidence to demonstrate there is sufficient parking to meet the policy tests, I am unable to conclude that there would not be an adverse impact on highway safety and the free flow of traffic due to an increase in on-street parking.

### *Living Conditions*

15. Plot 3 of the proposed development would be located to the south of No. 7 Rockley Close, a semi-detached property whose rear garden abuts the site, and which is orientated with habitable rooms at both ground and first floors looking towards this part of the development.
16. The screening on the boundary from fences and hedges would not disguise the fact that the corner of the proposed terrace block would be in close proximity to the boundary. Being a deep span with steep pitched roof on elevated ground this would have an overbearing, dominant and oppressive effect on the outlook from both the back garden and the rear facing habitable rooms of No. 7 Rockley Close, to the detriment of the living conditions of the occupiers.
17. No.6 and No.8 Rockley Close also share this common boundary with the development site, the orientation and juxtaposition of these properties, however, means that they are not affected to the same degree. No.6 is turned away from the development and the appearance of the new building would as a consequence be less dominant. No.8 is also offset and has a slightly longer garden giving greater space in which to assimilate the new development and in this respect, I do not consider the new development would be overbearing or adversely affect the outlook of these properties.
18. For the foregoing reasons, I conclude that whilst the proposal would not harm the living conditions of No. 6 or No. 8, the proposed development would have a harmful effect upon the living conditions of No. 7 Rockley Close with particular regard to outlook. The proposal is therefore contrary to the amenity protection aims of Policy LP24 of the Kirklees Local Plan (2019).

### **Other matters**

19. Third parties have referred to how the development would restrict rights of access, interfere with rights of way, or create overlooking. In light of the conclusions I have reached on the main issues, I have not considered these matters further, nor would it be appropriate for me to seek to get involved with private matters outside of the planning considerations.
20. Reference has also been made to an ecology report advising that the development would be a low risk of adversely affecting bats. There is no disagreement between the parties on this matter and had I found in favour of the proposal this could have been the subject of appropriate conditions.

**Conclusion**

21. For the reasons set out, I conclude the appeal should be dismissed.

*Edwin Maund*

INSPECTOR