
Appeal Decision

Site visit made on 23 June 2020

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 15th July 2020

Appeal Ref: APP/Z4718/W/20/3244667

Land off Birkby Hall Road, Huddersfield HD2 2XA

- 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 Akbary Hussain against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2019/62/93438/W, dated 21 October 2019, was refused by notice dated 02 January 2020.
 - The development proposed is erection of two dwellings (within a Conservation Area).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The name of the applicant in the application form and the appellant in the appeal form is not the same. The appellant's agent has confirmed that they are the same person and the name given in the appeal form is correct.
3. There is a planning permission for residential development at this site (ref 16/91223). A subsequent application (ref 19/92452) was refused. The appeal scheme seeks to overcome the reasons for refusal, including through a reduction in the number of bedrooms and minor amendments to the layout.
4. Amended plans were submitted during the processing of the application. However, the revisions to the scheme did not overcome the concerns of the Council. Therefore, although mindful of the amended plans, I have determined the appeal on the basis of the plans that were determined by the Council.

Main Issues

5. The main issues are the effects of the proposal on:
 - i) The character and appearance of the area, including the Birkby Conservation Area; and
 - ii) The living conditions of the neighbouring residential occupiers of Nos 3 and 5 Storths Place, with particular reference to outlook.

Reasons

Character and appearance

6. The appeal site is an infill plot between Storths Road and Grange Avenue. It is to the rear of Nos 3 and 5 Storths Place and it is separated from properties on

Grange Avenue by a narrow back lane that provides the access from Birkby Hall Road. It is in the Birkby Conservation Area (the CA), which is a primarily residential suburb of Huddersfield. The significance of the CA derives in part from the traditional 19th century stone-built terraces with front gardens separated from the road by low stone walls and gates. More recent properties in the area are generally modest in scale, constructed in similar styles and materials and integrated into their surroundings. Street trees are frequent. Consequently, the area has a traditional, harmonious and leafy character and appearance.

7. The proposal would be a pair of 2 storey semi-detached properties finished in stone with hipped slate roofs. They would have adjoining single storey front extensions with a monopitch roof canopy extending across the front elevation supported on timber posts. There would be 2 parking spaces for each property.
8. Irrespective that stone and slate are traditional building materials, the proposal would have a contemporary appearance. The dwellings would be visually distinct and it they would not form part of a coherent group of properties. The proposal would be conspicuous and incongruous in the surrounding built context which is characterised by traditional terraces, low vernacular buildings and modern single storey properties. Moreover, the proposal would be a relatively unremarkable and generic building that would not make a positive contribution to local distinctiveness or a strong sense of place.
9. While the individual dwellings might be modest, the proposal would nevertheless appear out of scale relative to the size of the plot. In contrast to neighbouring properties, much of the limited extent of private outdoor space would be sunk below ground level. The properties would not be stepped to reflect the sloping site which, together with the surrounding hard standing and retaining walls, would contribute to a conspicuous increase in the footprint and bulk of hard built development at this site. The proposal would not be assimilated into its surroundings. Consequently, it would not enhance the townscape or make a positive contribution to the CA.
10. Where proposals affect Conservation Areas, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in the exercise of any function under the Planning Acts, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. In this case, the proposal would not relate to the historic character and appearance of the CA. It would be a discordant feature that would not preserve or enhance the CA. However, it would be modest in the context of the CA as a whole and consequently it would result in less than substantial harm to the designated heritage asset.
11. The National Planning Policy Framework (the Framework) advises that less than substantial harm to the significance of designated heritage assets should be weighed against the public benefits of the proposal. In this case, 2 dwellings would make a limited contribution to the supply of housing and the economic and social benefits would be similarly limited. Moreover, there would be no greater benefits than those arising from the approved scheme. Therefore, the public benefits would not outweigh the harm to the CA and the proposal would be in conflict with the Framework.
12. As a result of the harm to the character and appearance of the area and the CA, the proposal would conflict with Policies LP24 and LP35 of the Kirklees

Local Plan Strategy and Policies Adopted February 2019 (the LP). These require, among other things, that development respects and enhances the character of the townscape and heritage assets, maintaining and reinforcing local distinctiveness and preserving or enhancing the significance of heritage assets. It would conflict with policies in the Framework that require development among other things to add to the overall quality of the area, to be sympathetic to local character and history including the surrounding built environment, and to contribute to a strong sense of place.

Living conditions

13. It has been brought to my attention that the site section plans are not accurate and I have not therefore relied upon them in my assessment. Nevertheless, they illustrate that that the proposal would be constructed below the surrounding ground level, such that several of the ground floor windows would look out onto retaining walls. There would be first floor windows facing the gable end of 29 Storths Road. However, the first floor elevation facing Nos 3 and 5 Storths Place would be blank. Consequently, by virtue of the differences in ground level, the arrangement of windows and the separation distances, the proposal would not result in direct overlooking or loss of privacy to neighbouring habitable room windows.
14. However, the proposal would be in close proximity to the rear of Nos 3 and 5 Storths Place. Irrespective that it would be sunk below ground level, the proposal would nevertheless be a 2 storey building in an elevated position relative to the neighbouring single storey properties. Nos 3 and 5 have single storey garages to the rear of the properties. However, the proposal would be considerably taller than the garages and the blank gable end of the proposal would be clearly visible from the rear windows and gardens of Nos 3 and 5.
15. The proposal would not be significantly overbearing when viewed from the rear windows of the neighbouring properties. However, by virtue of its height and proximity, the proposal would be a dominant feature that would result in a poor outlook from the neighbouring rear gardens. Moreover, in combination with the nearby gable end of 29 Storths Road, the proposal would be likely to contribute to a sense of enclosure to the rear gardens of Nos 3 and 5. Consequently, it would be an unneighbourly form of development that would be detrimental to the neighbouring occupiers when using their gardens.
16. Therefore, the proposal would result in harm to the living conditions of neighbouring residential occupiers of Nos 3 and 5 Storths Place, with particular regard to outlook. It would conflict with Policy LP24 of the LP which requires, among other things, that development provides a high standard of amenity for neighbouring occupiers. It would also conflict with the residential amenity aims of the Framework.

Other Matters

17. I accept that the appeal scheme might be a more efficient and financially viable form of development than the approved scheme. However, works have commenced at the site and there is no substantive evidence to demonstrate that the approved scheme would not be completed if the appeal should fail. On the basis of the evidence before me, the proposal differs from the fallback position of the approved scheme in a number of ways including in terms of its height, design and scale, and its relationship to surrounding built development.

Furthermore, it would conflict with the development plan. Therefore, while the existing permission has established the principle of residential development at the site, it does not provide a justification for the appeal proposal.

18. The proposal would be to the rear of 158 Birkby Road, which is a low 2 storey vernacular dwelling dating from the late 18th or early 19th century and it is a Grade II listed building. There is no reason for refusal relating to impacts on the setting of the listed building. However, Section 66(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the building or its setting. In this case, the listing building is within its own grounds and it is well separated from the appeal site by intervening buildings and gardens. Therefore, I am satisfied that the proposal would have a neutral effect on the setting of the listed building.
19. I note the third party concerns in relation to the access to the site, which is via an unadopted road. However, this is a private legal matter and it is not a matter to be addressed as part of this appeal.

Conclusion

20. Therefore, the appeal proposal would result in harm to the character and appearance of the area and it would harm the living conditions of neighbouring residential occupiers. It would conflict with the development plan and there are no material considerations that would outweigh that conflict. For this reason, the appeal should be dismissed.

Sarah Manchester

INSPECTOR