
Appeal Decision

Site visit made on 11 August 2020

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2020

Appeal Ref: APP/Z4718/W/20/3252642

Land adjacent to No.4 Green Nook Close, Upper Cumberworth, Huddersfield HD8 8NS

- 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 James Thackra against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2019/62/93552/E, dated 21 October 2019, was refused by notice dated 20 February 2020.
 - The development proposed is new detached dwelling.
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Decision

1. The appeal is dismissed.

Background & Main Issues

2. Both parties disagree to some extent on whether the site is located within the Green Belt. I have been provided with a copy of the local plan proposals map. Therefore, the proposals map for the area indicates that the appeal site adjoins the designated Green Belt but, is not located within it. One of the Council's reasons for refusal considers the proposed development, would likely encourage the future encroachment and domestication of land within the Green Belt, causing harm to its openness and character.
3. However, the proposed site plan, (PL-)03A, denotes the domestic curtilage and that land, albeit within the appellant's ownership to the north would be retained as existing. Hence, there would be no alteration to the Green Belt. Therefore, there is no development in the Green Belt, consequently, the proposal cannot constitute inappropriate development in the Green Belt and would not harm openness. Moreover, even if it were the case that the rear garden would at any point in the future likely to be absorbed into the Green Belt, the Council has the powers to take suitable enforcement action. As such, the proposal would comply with Policy LP58 of the Kirklees Local Plan Strategy and Policies, 2019 (KLP) and the National Planning Policy Framework (the Framework).
4. In light of the above, the main issues are:
 - The effect of the development upon the character and appearance of the area and whether it would preserve or enhance that of the Upper Cumberworth Conservation Area (UCCA);

- Whether the proposed development provides an acceptable standard of living conditions for future occupants, with particular regard to external amenity space; and
- The effect of the proposed development on living conditions of neighbouring occupiers and future occupiers, with regard to privacy and outlook.

Reasons

Character and Appearance

5. The appeal site is land which is adjacent to the properties known as No.3 and No.3a Green Nook Close, a small cul-de-sac with residential development. The appeal site lies adjacent to the UCCA. The area is characterised by both residential and commercial properties. Properties are of a traditional design constructed of natural stone with roof tiles. Despite some variation in form the properties in the area present a discreet arrangement that appreciably contributes towards the local character.
6. The appeal proposal would result in a four-bedroom detached dwelling with integral garage, driveway and both front and rear garden areas. Despite the proposed dwelling having a similar height than that of the adjacent properties, it would still be of a substantial size and footprint, taking up the majority of the site with built development and in close proximity to each of the boundaries.
7. This combined with the appearance of two storeys to the front and three storeys to the rear and the incorporation of, in the context of adjacent properties, results in a building of imposing scale which would be constrained due to the plot size by its scale, massing and layout. As such, it would appear as a cramped and incongruous building resulting in overdevelopment within the restricted plot. Thus, creating an unacceptable spatial relationship with its immediate surroundings to the detriment of the character and appearance of the area.
8. In terms of the proposed design, the dwelling would have an excessively large glazed opening to the front elevation. Although, I appreciate that this has been derived from the open character of the rural setting of the Green Belt and elements of nearby properties. It would appear as an incongruous feature to the principal elevation. When combining this, with the extensive and disproportionate use of fenestration throughout the proposed dwelling, there would be a miss match of openings, features and design styles along each of the elevations. The garage door would appear oddly and overpowering in size, whilst the addition of a Juliette balcony and roof terracing at the rear adds to the confusing appearance of the design of the proposed dwelling.
9. Despite, the proposed materials being natural and in keeping with properties nearby, the proposed dwelling would have no overall architectural style or consistency of openings and features, it would be out of keeping with the local vernacular. Moreover, I do not agree with the appellant that the proposal would sit in a harmonious way with surrounding designs of residential properties and it would appear stark and jarring from the cul-de-sac when viewed in the context of other dwellings within the local area. As such, it would cause harm to the character and appearance of the prevailing rural area.
10. For the reasons given above, I conclude that the proposed development would cause harm to the character and appearance of the area. It would conflict with

Policy LP24 of the KLP, which ensures good design and that the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape.

11. The proposal would be contrary to the design objectives in the Framework, particularly Section 12, paragraph 127, which seeks to ensure new development is visually attractive, maintains a strong sense of place and adds to the overall quality of the area.

Significance of the heritage asset

12. Although the proposed dwelling is not directly located within the UCCA, the appeal site is in close proximity to the boundary with it. I have a duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area (CA).
13. The appeal site is currently vacant land, free from any built form. It is visually prominent from the surrounding landscape including views across the UCCA, particularly from the North, when viewed from the designated public right of way. As I observed at the time of my site visit from across the right of way, accessed from Cumberworth Lane, the existing built form of dwellings significantly impedes the historic and important vista and views outwards towards the UCCA. Therefore, the addition of a further dwelling within this cluster, including the built form and domestic paraphernalia would not worsen this situation, thus causing no further harm to the CA and its setting.
14. However, the character of the local townscape and landscape is identified as having a *mixture of historic development and modern housing with clusters of high-density dwellings, including large principal buildings (barns, farmhouses) are juxtaposed with smaller cottages and outbuildings or takes the form of small groups of terraced cottages of a modest scale*. Given that the proposed dwelling would be of an excessive scale in a restricted plot, as I have already identified above, it would create a cluster of large buildings with no reference point in the local townscape resulting in some harm to the historical rural character and appearance of the setting of the UCCA. It would therefore fail to preserve that of the CA. Whilst the harm would be less than substantial, I must nonetheless give this considerable importance and weight in the context of a duty to favour preservation or enhancement.
15. Paragraph 196 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The Council set out that the public benefits for the proposals are to make more effective use of land as well as to deliver a sufficient supply of homes, I have no reason to disagree with their findings. As such, these benefits would outweigh the harm to the significance of the CA, and it would comply with the Framework Chapter 16 in this regard.

Living Conditions – external amenity space

16. The Council argues that the proposal would not provide a suitable amount of external private amenity space given the size of the dwelling. However, I acknowledge that the dwelling would be of substantial size, but I have not been

provided with any evidence of what the Council considers would be an acceptable measurement and there does not appear to be any size criteria set out in Policy LP24, relating to new residential development. Nonetheless, taking account of the side garden and front gardens, as well as the useable space of the roof terrace and balcony area, I consider there would be sufficient external amenity space for occupiers of the proposed dwelling.

17. For the reasons given above, I conclude that the proposed development would provide satisfactory living conditions for future occupiers, in regard to external amenity space. There would be no conflict with Policy LP24, of the KLP, only in this regard.

Living Conditions – privacy and outlook

18. The proposed dwelling would be in close proximity to the boundaries of those properties at No.3 (No.3) and No.3a Green Nook Close (No.3a). The Council advise that there would be only be a separation distance of some 2.9m between the side elevation with No.3, despite this the properties would almost align and both front elevations would face in the same direction and there would be a suitable distance between the position of the roof terrace and Juliet balcony. Therefore, there would be no harm to the living conditions of the existing occupiers at No.3.
19. However, in regard to No.3a, the proposed dwelling would be almost directly opposite, facing the front elevation. Albeit, there would be a slight angled position and minimal obscure glazing. The distance would only be some 10m and the large glazing on the front elevation of the proposed dwelling would direct overlook into the windows and existing large areas of glazing on No.3a resulting in an unacceptable impact on the privacy currently enjoyed by those occupiers at No.3a and vice versa of future occupiers. Furthermore, given the short distance between the two properties, future occupiers would have a bleak outlook directly out towards the large imposing elevation at No.3a.
20. For the reasons given above, I conclude that the proposed development would not provide satisfactorily living conditions for existing and future occupiers, in regard to privacy and outlook. It would be contrary to Policy L24 of the KLP, which amongst other things ensures proposals provide a high standard of amenity for future and neighbouring occupiers.

Other Matters

21. It is the appellant's case that, by virtue of previously granted planning permissions¹, a fallback position exists whereby if the appeal scheme does not progress the alternative scheme, for a dwelling, could be developed following a resubmission on a like for like basis. The Council acknowledges that it granted planning permission for similar proposals to that which is the subject of this appeal.
22. However, I have been provided with limited details of these schemes including the Development Plan Policies at that time and whether conditions were satisfied on the reserved matters consent. There has now been a change with the Local Plan being recently adopted and changes to National Planning Policy. From the evidence before me it is not conclusive, the appellant indicates in the design and access statement that it is an extant permission, but in the appeal

¹ 2011/60/91468/E2, 2014/61/90437/E,

statement appears to acknowledge that the permission has lapsed, requiring a resubmission, which would indicate that the fallback position advanced could not be implemented.

23. Nonetheless, even, if I were to consider there was a genuine fallback scheme, and there is greater than a theoretical possibility that the development might take place, from the evidence before me, it would be less harmful than the appeal scheme and as such does not justify the proposal which, for the reasons detailed previously, would cause harm to living conditions and the character and appearance of the area.
24. Although the proposed development would not cause any harm to highway safety and the lack of objections from the parish council and neighbours, this consideration does not outweigh the harm caused by the development.
25. I have had regard to the property that has been drawn to my attention by the appellant along Barnsley Road. Whilst the circumstances of that case differ from this appeal proposal in respect of the demolition of a existing dwelling on site, separation distances, site coverage, land levels and plot size. These matters do not diminish the concerns I have identified in relation to the proposal in the context of the appeal site nor the harm I have identified in respect of the main issue. In any case, I must consider the appeal on its own merits.
26. I recognise the appeal proposal would have benefits with regard to the supply of housing in the Borough, be within a sustainable location and the contribution both construction opportunities and any future occupiers would make to the local economy. These matters, however, do not outweigh my findings in respect of the main issues nor the conflict I have found with the development plan read as a whole.

Conclusion

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

KA Taylor

INSPECTOR