



Appeal Decision

Site Visit made on 14 September 2021

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2021

Appeal Ref: APP/Z4718/W/21/3272918

Land adjacent to 2 Lightenfield Lane, Netherton, Huddersfield HD4 7WJ

- 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 Field View Homes Yorkshire Ltd against the decision of Kirklees Council.
 - The application Ref 2020/62/92552/W, dated 5 August 2020, was refused by notice dated 1 February 2021.
 - The development proposed is the erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Field View Homes Yorkshire Ltd against Kirklees Council. This application is the subject of a separate decision.

Preliminary Matters

3. Following the submission of the appeal a revised National Planning Policy Framework (the Framework) was published. The main parties have been given the opportunity to comment on it. I have taken the new Framework and any comments thereon into account in my decision.

Main Issues

4. The main issues are the effects of the proposed development on the character and appearance of the area and the living conditions of occupiers of nearby properties with regard to outlook.

Reasons

Character and Appearance

5. The appeal site is a triangular plot of land within a mainly residential area. The adjacent dwelling at 2 Lightenfield Lane is a two-storey detached property set back from the lane. A small development of bungalows on Noble Court lies just to the west. Further to the west there are large, detached dwellings on Coppice Drive that are separated from the road by a grass verge and front gardens. Further along Coppice Drive is an estate of mainly two storey dwellings. Just to the east is a row of single storey bungalows set back from the road that are well screened by a stone wall and vegetation. Other development in the immediate vicinity includes the Netherton and South Crosland Conservative

Club, a bowling green and park/recreation area to the south east and a school to the north east.

6. The appeal site slopes relatively steeply downwards from Lightenfield Lane towards the adjacent bungalows on Noble Court. It is prominent along Lightenfield Lane, and although it is currently quite overgrown, it does contribute positively to the open quality of the street scene.
7. I note that the design of the proposed dwelling has been revised from previous proposals in order to overcome concerns expressed by the Council. Specifically, it would present a single storey elevation to the lane and the land would be excavated to reduce the height at which the dwelling would sit.
8. The location of the proposed dwelling very close to Lightenfield Lane means that it would appear prominent within the street scene despite its single storey elevation. The proposed dwelling would also be located close to its southern and western boundaries. The levelling of the site would involve quite substantial excavation works and retaining wall. Due to its positioning within the site, its scale and the excavation work required to reduce site levels, the proposed development would appear contrived and visually cramped. The proposed development would therefore be at odds with the more spacious character of the area close to the appeal site. As such, it would introduce an incongruous form of development that would substantially detract from the quality of the street scene.
9. Consequently, the proposed development would have an unacceptable effect on the character and appearance of the area. It would therefore conflict with Policy LP24 of the Kirklees Local Plan Strategies and Policies, adopted 2019 (the LP) which requires new development to promote good design by ensuring the form, scale, layout and details respects and enhances the character of the townscape amongst other matters. It would also conflict with the design objectives of the Framework.

Living Conditions

10. Of concern in this case is the relationship of the proposed dwelling with the dwellings to the west, in particular 7 Noble Court. A number of the bungalows on Noble Court, including no. 7 have habitable room windows facing directly towards the appeal site at relatively close proximity.
11. The roof of the proposed dwelling would be steeply pitched but asymmetrical, with the roof plane on the rear elevation being larger than that on the front elevation. This would considerably increase the massing of the proposed dwelling when viewed from the south west and west including from the rear of 7 Noble Court in particular.
12. The proximity of the proposed development to no. 7 and the design of the roof in particular would mean that the proposed dwelling would appear dominant and oppressive to occupiers of this bungalow from its rear facing windows and small rear garden. It would therefore have a significantly overbearing effect on the outlook from the windows in the rear elevation and rear garden of no. 7.
13. There would be a similar effect on the outlook from the rear of 5 Noble Court. However, the proposed dwelling would be located further from this property and orientated at a different angle. Given this, the effect on outlook for occupiers of no. 5 would not be unacceptable.

14. I find therefore that the proposed development would result in significant harm to the living conditions of occupiers of 7 Noble Court due to the effect on outlook. As such, the proposed development would conflict with Policy LP24 of the LP which requires proposals to provide a high standard of amenity for neighbouring occupiers, including maintaining appropriate distances between buildings. It would also conflict with the objectives of the Framework which seek to ensure a high standard of amenity for existing users.

Other Matters

15. The appellant refers to an appeal decision for a previous scheme at the appeal site, stating that it did not make reference to overdevelopment of the site, even though a larger dwelling was proposed. I do not have the details of that previous scheme before me. Therefore, I cannot draw any direct comparison with the proposed development that would weigh in its favour and have assessed the proposed development on its own merits.
16. The appellant states that there would be no loss of privacy or overshadowing for occupiers of nearby properties, no highways safety concerns, no unacceptable noise impacts and the proposed development would provide sufficient internal and outdoor space for future occupiers. Whilst this may be the case, the lack of harm is a neutral factor.
17. On the basis of the evidence before me, I do not agree with the appellant that the appeal site would be classed as previously developed land because the Framework defines that in its Glossary as “land which is or was occupied by a permanent structure” – which is not the case here.
18. The appellant refers to the support given by development plan policies and the Framework to residential development in urban areas and the acceptability of infilling. No specific development plan policy is referenced in this regard. However, I acknowledge that the proposed development would make use of a site that is within a settlement and the Framework states that decisions should support development that makes efficient use of land and the development of windfall sites – giving great weight to the benefits of using suitable sites within existing settlements for homes. Nevertheless, for the reasons given, the appeal site would not be suitable for the development proposed. I therefore give this matter limited weight.
19. The proposed development would make a contribution to the supply of housing with associated economic and social benefits, although the benefits stemming from one dwelling would be limited and as such have limited weight. Furthermore, the Council’s officer report identifies that there is more than five years supply of deliverable housing land which the appellant has not disputed. Amongst other things, policies for the supply of housing are therefore up to date and thus the presumption in favour of sustainable development in paragraph 11 of the Framework does not apply.

Conclusion

20. The proposed development would have an unacceptable effect on the character and appearance of the area and the living conditions of occupiers of 7 Noble Court with regard to outlook.
21. The proposed development would conflict with the development plan taken as a whole, as well as the Framework. There are no material considerations that

indicate the decision should be made other than in accordance with it.
Therefore, for the reasons given, I conclude that the appeal should not
succeed.

F Wilkinson

INSPECTOR