



Appeal Decision

Site Visit made on 20 September 2021

by J Hunter BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2021

Appeal Ref: APP/W4705/W/21/3279494

27A Langley Lane, Baildon, BD17 7LH

- 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 G Hallett against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 21/02333/FUL, dated 29 April 2021, was refused by notice dated 28 June 2021.
 - The development proposed is a proposed detached dwelling on land adjacent to No27a Langley Lane Baildon.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr G Hallett against City of Bradford Metropolitan District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are i) the effect of the proposal on the character and appearance of the area ii) whether the proposed development would provide acceptable living conditions for future occupiers of the appeal dwelling in reference to outlook, daylight, privacy and private amenity space and to 27a Langley Lane and 2 Sovereign Park in respect of privacy and iii) whether there is sufficient information to assess the effects of the proposal on the nearby railway tunnel in reference to land stability.

Reasons

Character and Appearance

4. The appeal site is a steeply sloping grassed mound within an established residential area. It is bounded to the north by Langley Lane, to the west by private access and properties on Sovereign Park and to the east by an electric substation. A tree belt wraps around the east and southern boundaries separating the site from the railway line that runs beneath part of the site. The open, verdant character of the site contributes positively to the wider street scene.
5. Whilst there is a mixture of house styles, in the main the properties have symmetrical street facing facades and simple roof lines. Furthermore, there is

limited palette of materials and a very noticeable sense of space between and around properties which add to the distinctive character to the area.

6. The proposal would see the construction of a detached dwelling and double garage with access off Langley Lane. The building would effectively comprise of two blocks, the house would be set into the hillside lying roughly in line with the adjacent property no 27a Langley Lane. The garage would sit lower on the hillside and substantially further forward. In this regard, I consider that due to its position relative to the proposed dwelling and the established building line the double garage would dominate the street scene resulting in harm to the character and appearance of the area.
7. A short, two car width parking area would lie in front of the proposed garage and a narrow path and series of steps would lead up the side of the garage to the front door. The footpath would lead on to the rear of the property where there would be a small triangular shaped patio area. The footpath and hardstanding areas would be edged with a relatively narrow area of soft landscaping which would extend around the perimeter of the site. The resultant site layout would in the context of the spacious opened character of the surrounding area, appear cramped and contrived thus causing harm to the character and appearance of the surrounding area.
8. Furthermore, I consider that the stepped, hipped roof design, punctuated by dormer windows on the side elevations would be at odds with the prevailing character of the surrounding area where roofs are generally of simple pitched roof design with some front facing windows.
9. The proposal would therefore fail to accord with the requirements of Policies DS1 and DS3 of the Core Strategy Development Plan Document 2017 (CS) and the Homes and Neighbourhoods Supplementary Planning Document. These policies collectively seek to, amongst other things, promote high quality design that positively contributes to its surroundings.

Living Conditions

10. The proposed dwelling would have a number of windows at ground and first floor level facing toward the existing properties at Sovereign Park as well as no 27a Langley Lane. Whilst some of the ground floor windows would be screened by boundary treatments, the separation distance between the windows on the existing properties and those serving the habitable rooms on the western and southern elevations of the proposed dwelling would be relatively short at around 15 metres. Consequently, owing to the proximity of the properties there would be an unacceptable level of overlooking between habitable rooms which would result in poor living conditions for existing and future occupiers in reference to privacy.
11. The proposed outdoor amenity space is small, it would consist of a relatively steep, narrow strip of soft landscaping that would encircle the perimeter of the site punctuated by a small, triangular shaped terrace to the rear. I do not consider the private outdoor amenity space to be large enough to provide for a household's requirements, namely sitting out, drying clothes and child's play etc. It would therefore be unacceptable in living condition terms.
12. The Council has raised a concern in regard to the proposed basement level with reference to outlook and light. Whilst I acknowledge that the two west facing

windows would be relatively small, I note that most of the basement rooms would be non-habitable and therefore I do not consider that the configuration of the basement would result in unacceptable living conditions for future occupiers.

13. Notwithstanding my findings in terms of the basement level, overall, the proposal would result in poor living conditions for future occupiers of the appeal dwelling in reference to private amenity space and to No 27a Langley Lane and 2 Sovereign Park in respect of privacy. It would therefore fail to accord with the amenity requirements of Policies HO9 and DS5 of the CS.

Land Stability

14. The proposed dwelling would be located on an area of land that is within the vicinity of a Balidon Railway Tunnel. A consultation response received by the Council from Network Rail (NR) states; *'In order that we may fully assess the proposed dwelling, we require a revised proposed elevations plan from the developer that shows the position of the tunnel in relation to the new building. Upon receipt of this, we will be able to consider the scheme further and respond fully. For information purposes, I have included our standard tunnel condition below to give an indication of our possible requirements, however, at this stage, please be aware that this is included for guidance only and may vary once the additional information requested above has been received.'*
15. It is clear that the appellant has had some dialogue with NR and indeed provided some drawings. However, I note that there has been no confirmation as to whether the proposal is acceptable in principle nor has there been any further correspondence that confirm the stability of the tunnel or a suggestion for a scope of works for construction or investigative surveys.
16. I have considered whether a planning condition would be appropriate to secure additional investigations regarding this issue however, I note that the model condition provided by NR is provided with the caveat that subject to the additional information the condition would potentially require amendment. I cannot therefore be certain that this condition would meet the tests of reasonableness and precision contained within the planning practise guidance.
17. Furthermore, whilst I note the appellant's comments about separate legislation with reference to railway tunnels, CS Policy EN8 (B) requires that remedial measures must be identified to ensure that the development will not pose a risk to human health, public safety and the environment. Based on the very limited information I have before me I cannot be certain that the proposal would not pose a risk to land stability. Therefore, I conclude that there is insufficient information to assess the effects of the proposal on land stability, the proposal therefore fails to accord with Policy EN8.

Conclusion

18. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

J Hunter

INSPECTOR