



Appeal Decision

Site visit made on 15 February 2022

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2022

Appeal Ref: APP/Z4718/W/21/3282553

6 Oakfield Road, Birkby, Huddersfield HD2 2XF

- 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 Martyn and Debbie Wild against the decision of Kirklees Metropolitan Council.
 - The application Ref 2021/62/90145/W, dated 13 January 2021, was refused by notice dated 19 March 2021.
 - The development proposed is the demolition of existing garage and garden shed and erection of new garage to the existing house and erection of new residence with basement, ground and first floor and second floor in the roof space, in the side garden of the existing house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the decision of the Council, the appellants have submitted amended drawings which show altered floor levels, a wider access, larger detached garage, and amendments to the width and height of the proposed dwelling. The appellants suggest that this alteration to the scheme should be considered in the appeal as the variations are matters capable of being dealt with through planning conditions.
3. The Procedural Guide to Planning Appeals – England states that the appeal process should not be used to evolve proposals. It is clear that revisions intended to overcome reasons for refusal should normally be tested through a fresh application. I have had regard to the Wheatcroft Principles and the degree of engagement of all parties. As the revised proposal increases the height of some elements of the building and could therefore increase its effects, I have determined the appeal on the basis of the plans that were before the Council when it made its decision and on which all parties were consulted. The relevant plans, some of which were amended during the Council's consideration of the planning application, are those listed on the Council's Decision Notice.

Main Issues

4. The main issues are the effect of the development on the character and appearance of the locality; whether or not the proposal preserves or enhances the character or appearance of Birkby Conservation Area; and, highway safety.

Reasons

Character and appearance

5. The site is land to the side of a dwelling at 6 Oakfield Road consisting of part of its front and rear garden areas, and a small group of ancillary outbuildings set alongside the existing house. It is located in a row of detached and semi-detached dwellings and garages within a residential cul-de-sac. The individually designed houses are of various ages and set behind enclosed front gardens or forecourts with private amenity spaces to the rear.
6. The site lies within Birkby Conservation Area (the CA). The area is primarily a residential suburb consisting of phased developments of mainly stone built terraces, houses and villas behind walled front boundaries. The largely C19 buildings feature chimney stacks and have stone detailing about their openings and eaves lines. Later buildings interject with more varied architectural styles. Additionally, the wider area benefits from high levels of street trees and mature gardens. Together with open green spaces, the buildings and greenery provide a positive and pleasing aspect to the CA.
7. Compared to other parts of the CA, the principal buildings on Oakfield Road are distinctly well-spaced. They generally benefit from side gardens and/or parking provision in the form of driveways and/or garage buildings. The intervening spaces and areas of subordinate ancillary buildings provide a significant sense of spaciousness about the mainly 2-2½ storey dwellings along the road. The successive intervals between the principal buildings provide a defining broad rhythm to the pattern of development on the cul-de-sac.
8. The introduction of a large dwelling in lieu of the existing outbuildings would interrupt this characteristic arrangement of development on the street. Whereas the existing low outbuildings retain the sense of spaciousness between the flanking higher buildings, the proposal would substantially fill the gap, leaving only limited space between the successive principal buildings.
9. Although the overall height would be graded between the neighbouring buildings, the dwelling would have a strong vertical emphasis by virtue of the relatively narrow width and steep forward-facing roof pitch. The scale and considerable massing would be emphasised by both a subterranean garage and deep rear ridgeline extending a considerable distance into the plot.
10. Unlike other buildings with basements, the excavated area and depth of the facing garage door to the front of the building would give the impression of a 4-storey building. This would contrast with the appearance of the existing buildings. Accordingly, the scale and limited separation distances to the neighbouring buildings would jar with the spatial arrangement and the regularity and rhythm to the blocking of the buildings along the frontage.
11. In support of the scheme the appellants refer me to the neighbouring development at 10 and 12 Oakfield Road. These properties have similar plot sizes to that proposed and have introduced development somewhat lower than the typical 2½ storey buildings. However, the relatively close coupling of these buildings, of similar height and appearance, reads as a consolidated block surrounded by ancillary small-scale development. Consequently, the pair respects the rhythm of building massing and distribution along the street.
12. The importance of the sense of spaciousness and avoidance of a cramped appearance was recognised in an appeal decision¹ relating to No12. I find those

¹ APP/Z4718/A/07/2052394

buildings therefore contrast with the circumstances of the proposed development.

13. I note the appellant's contention that the appeal site is a 'missing tooth' in the line of development between a corner property fronting Birkby Hall Road and up to No12. I acknowledge that the existing semi-pair, which includes No6, lies close to some rear extensions of a building fronting on to Birkby Hall Road. However, the rear extensions to the corner building present as subordinate elements to the Oakfield Road streetscene. As rear extensions, their lower height and the gap formed by an access track, retains a sense of separation and spaciousness between the principal buildings on the different frontages. The effect is therefore distinct from the appeal proposal.
14. Moreover, if a similar approach were taken to filling other 'interval' sites, the importance of those defining characteristic spaces would be lost. This would lead to wholesale changes eroding the density, grain and rhythm of development on the street. I acknowledge that the CA is identified as being 'at risk' due to changes that have occurred across its area; however, that is not a good reason to permit further changes that would undermine the character and appearance of this part of the CA.
15. The scale and form of the rear elevation would read as 3½ storeys utilising a flat roof element between the pitching roof slopes of the rear part of the building. It would include openings, terraces and balustrades which are not prevalent features of the area. However, as elements contained to the rear of the site, where they would not be visible from the public domain and only have limited prominence from the nearby private residences, they would not be detrimental to the character or appearance of the CA.
16. Under the duty imposed under s 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. For the reasons set out above, I conclude that the development would cause harm to the character and appearance of the locality and the pattern of development in this part of the CA.
17. The National Planning Policy Framework (the Framework) is clear at Paragraph 199 that great weight should be given to the CA's conservation. Whilst this harm would be no greater than less than substantial within the context of Paragraph 202 of the Framework, less than substantial harm does not equate to a less than substantial planning objection.
18. I note the possible public benefits of the proposal. These include the contribution of an additional housing unit to the supply of housing in the borough. It would be in a location accessible to services and facilities by means other than private motor vehicle. Furthermore, the construction and use of the building would contribute to the local economy.
19. Additionally, the scheme would incorporate an energy efficient design, renewable energy measures, recycling facilities and facilitate the use of electric vehicle charging points. The proposal could provide additional landscaping and biodiversity interests whilst retaining existing trees, including a nearby street tree. These would be moderate benefits of the scheme.

20. I also acknowledge other aspects of the scheme, including providing accessibility, flexibility and incorporating elements of good design using materials similar to those elsewhere on the street. However, as components meeting requirements of the development plan, they are not benefits in favour of the proposal. The scheme would replace buildings coming to the end of their useful life. As that change is not necessarily dependent on the detail of the proposed development, it is a matter of limited weight in the appeal.
21. Taking the above matters together, I find that the described public benefits would be limited; they would not outweigh the less than substantial harm identified and the great weight I must attach to it.
22. For the above reasons, I find the scale and position of the proposal would fail to preserve or enhance the character or appearance of the locality and the Birkby Conservation Area. It would conflict with Policies LP24 and LP35 of the Kirklees Local Plan Strategy and Policies [2019] (the KLP) as they seek high standards of design which enhance the character of the townscape and the character and appearance of designated heritage assets respectively. The proposal would also conflict with the Framework as it seeks to achieve similar aims.

Highway safety

23. Parking for the new dwelling would be provided at the basement level. Access would be via a steep ramp set a short distance from the back of the pavement. The arrangement of the access and use of an internal turntable with parking spaces behind, would provide a mechanism to enable vehicles to enter and leave the site in a forward gear. Parking for the existing dwelling would be provided within a new garage and curving driveway leading to it.
24. According to the Council, the guideline off-street parking requirement for 4-bedroomed dwellings is 3 spaces. For the new dwelling, the proposed arrangement of the inclined access and limited basement opening would restrict the height of vehicles that could use the turntable and parking facility. The location of 2 spaces set behind the turning area would limit vehicle manoeuvring capability with 2 cars being blocked by the third set on the turntable or ramp. The use of a steep narrow ramp emerging close to the pedestrian footway would require cautious and slow manoeuvring such that, in practice, effective convenient off-street provision would be limited to 2 vehicles.
25. For the existing 5-bed dwelling, notwithstanding the impractical internal dimensions of the garage, the linear arrangement of the garage and driveway would also restrict convenient and free use of the proposed spaces. The combined level of accommodation across the 2 sites is therefore likely to result in an out-spill of vehicle parking resulting in increased on-street parking.
26. At the time of my site inspection, albeit only a snapshot in time, the level of parking in the road was limited. Given the number of dwellings and associated off-street parking facilities elsewhere, there is little to suggest that a low number of additional resident or visitor cars parked within the highway would prejudice highway safety or prevent access to other parts of the cul-de-sac by larger vehicles.

27. The Council's highway advisors requested that the ramp should have a maximum incline of 1 in 10 and a greater width. This would facilitate easier manoeuvring and, amongst other things, provide a more controlled exit as vehicles reach the top of the ramp.
28. The short level section at the top of the ramp would require the majority of emerging vehicles to stop on its inclined section to avoid oversailing the footway. In addition to requiring careful vehicle control, the steep gradient and close position of the emergence point to the pavement would reduce the achievable visibility between drivers and pavement users. This would potentially be frustrated by landscaping within the plot frontage.
29. There is little information before me to indicate the achievable visibility on emergence, or to demonstrate that vehicles could safely leave the site without risk to other road users, particularly those on the pavement. Accordingly, notwithstanding my findings in relation to parking, I find the proposal would prejudice highway safety. It would conflict with Policies LP21 and LP22 of the KLP as they require development to provide adequate layout and visibility, safe access and parking, and avoid detrimental impacts on highway safety.

Other Matters

30. I note the other concerns raised in representations submitted by third parties. However, pursuant to my finding on the main issues, my decision does not turn on those matters.
31. I also acknowledge the appellant's concerns in relation to the approach taken by the Council, including the level of communication and the timing of the decision. However, these are not matters for this appeal.

Conclusion

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

R Hitchcock

INSPECTOR