



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: 28 February 2022

Appeal Ref: APP/Z4718/W/21/3283347

Land adjacent 35/37 Dunford Road, Holmfirth HD9 2DR

- 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 R. A. Berry and Son Ltd against the decision of Kirklees Metropolitan Council.
 - The application Ref 2021/62/91640/W, dated 20 April 2021, was refused by notice dated 29 June 2021.
 - The development proposed is two detached houses with associated garages, parking, external works and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the development on:
 - the character and appearance of the locality
 - the setting of the Grade II listed building at 35/37 Dunford Road
 - trees and ecology
 - highway safety
 - the character and appearance of the nearby Holmfirth Town Centre and Underbank Conservation Areas.

Reasons

Character and appearance

3. The site is a steep inclined field of rough grass and intermittent trees set above the B6106 Dunford Road, a valley route between Holmfirth and Longley. The field is subdivided and fronted by drystone walls. Above the site, some residential properties set along a rural lane back on to the land. On the opposite side of Dunford Road, development lies between the road and the River Ribble and is in mixed commercial and residential uses with interjecting spaces where development or gardens lie below the roadside wall.
4. The site is bordered to the south by a substantial listed building set in a large plot with established treed and landscaped gardens. The land immediately to the north is undeveloped with some tree cover. The sporadic buildings and extent of open and undeveloped land in the locality provide a verdant character to the area which appears semi-rural on this section of Dunford Road.

5. The proposal includes the excavation of part of the field to provide an open courtyard roughly following the sloping level of the road. Two detached dwellings would be set into the slope about 3 sides of the shared forecourt area. The buildings would have L-shaped footprints consisting of split height elements and be rotated at 90° to each other. The subordinate elements would provide ground level garaging with a single floor of accommodation above. This would link to 2 levels of accommodation in the corresponding higher section of each building. Terraced gardens would flank the buildings contiguous with the upper level of accommodation.
6. The proposed buildings would be isolated on the eastern side of Dunford Road. This would reflect the more dispersed pattern of buildings outside of the concentrated clusters of development lying at distance to the north and south of the site. However, the arrangement of the development would starkly contrast with that of other roadside development in the locality.
7. Residential development nearby is predominantly of a linear form and laid out to present as one or two storeys to the roadside. Existing buildings respond to the local terrain with limited depth and lying parallel to the contours. In contrast, the proposed layout would include building elements set perpendicular to the road that would require a substantial degree of excavation to accommodate them and the associated vehicle areas.
8. The significant depth of the plots would result in built elements stretching deep into the width of the field. Although much of the buildings would be below the existing ground levels, the large multiple element roofscapes and deep facades would cause them to present as 3 storeys to the road frontage. They would appear significantly larger than the predominant scale of local development.
9. The perception of scale would be increased by the arrangement on 3 sides of the forecourt and the use of mono-pitched roofs. It would appear bulky as a consequence of the deep elevations and necessity for a high linking retaining wall between the buildings. Whilst the design approach would be cohesive and utilise local materials that would provide some assimilation, it would stand out as a contradictory form of development in its setting.
10. For the above reasons, I find the proposal would appear incongruous in its location on account of its scale, form and arrangement. It would conflict with Policy LP24 of the Kirklees Local Plan Strategy and Policies [2019] (the KLP) and the National Planning Policy Framework (the Framework) as they require the form, scale and layout of new development to respect and enhance the character of the townscape and landscape setting.

Listed building

11. The site lies adjacent to the curtilage of a Grade II listed building at 35/37 Dunford Road. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires a decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
12. Paragraph 194 of the Framework advises that applicants should be required to describe the significance of any heritage assets affected by development and

the potential impact of the proposal on the significance. As a minimum the relevant historic environment record should have been consulted and appropriate expertise used. The appellant has submitted little assessment of the effect of the proposal on the significance of the listed building.

13. 35/37 Dunford Road is an impressive stone house of some stature. The building has a large footprint and features ornate stone detailing, particularly to the main entrance and eaves line. It has stone banding to the elevations and a large chimney stack set in a spreading hipped roof.
14. The building is located within a large plot set high above the roadside. Despite established landscaping and trees within the grounds, the elevated position and comparative scale of the building cause it to have a strong presence in the landscape. From much of the surrounding area, the position of the building and tree screening results in only glimpsed views of the building. However, it features strongly as a focal point when travelling south from the lower section of Dunford Road towards it.
15. As the main aspect of appreciation of the building, those views are framed by the open, undeveloped foreground of the field (the site) and a backdrop of trees which together provide a verdant setting. Other buildings are set at some distance such that they appear recessive in the main views of the house.
16. The proposed buildings would lie a short distance from the common boundary with the listed building. By virtue of their proximity, scale and the significant incursion into the largely undeveloped field, the proposal would be highly prominent in the foreground of the main views from the road. The presence of the buildings and their modern and contrasting multiple-element design would visually compete with the listed structure. They would reduce the sense of spaciousness about the building and the rural framing of the main views.
17. Accordingly, I find that the proposal would undermine the focus currently drawn to the building as experienced from the direction of the town centre. For those reasons, I conclude that the proposal would fail to preserve the setting of the listed building.
18. The Framework is clear at Paragraph 199 that great weight should be given to the asset's conservation. In the context of the Framework, the extent of overall harm of the proposal would be less than substantial given that the effect is limited to its setting only. Paragraph 202 of the Framework advises that such harm should be weighed against the public benefits of the proposals. I undertake this assessment below. Nonetheless, at this stage, it is important to recognise that the proposal would be contrary to Policy LP35 of the KLP, which amongst other aims seek to ensure that developments protect or enhance the borough's heritage assets, their settings and their significance.

Trees and biodiversity

19. The site accommodates a number of trees, some of which are protected under a Tree Preservation Order and contribute to the amenity of the locality. An arboricultural assessment submitted in support of the planning application was carried out in 2017 in conjunction with a previous proposal for development on the site. It does not therefore relate to the specific detail of the proposal before me.

20. The location of the northerly unit lies close to a prominent protected oak tree identified as part of a group of 3 (G3) in the appellant's report. From the information provided, the extent of any incursion into the canopy or root protection area (RPA) arising from the proposed position or construction of the building is unspecified. Any effect on that tree is therefore unclear.
21. Furthermore, the scheme includes the removal of the upper part of the roadside wall north of the proposed vehicular access. Additionally, part of the wall is to be realigned to allow excavation of the land to provide a refuge associated with a new bus stop.
22. The wall acts as a retaining structure with the existing land levels lying close to the top of the wall. Several parts of its length lie within the RPA and canopy areas of trees fronting the site and others close to the northern boundary. There is little assessment of the effects of those works and any attendant requirement for land regrading within the relevant RPAs. It is not possible therefore to establish whether the long-term health of the trees is compatible with the proposed development.
23. The site forms part of the Kirklees Wildlife Habitat Network, a strategic network of green spaces which connect designated sites of biodiversity and geological importance and notable habitat linkages within the district. As a proposal that would eat into the designated corridor, there is little to demonstrate the net effect of the development.
24. I acknowledge the appellant's reference to previous findings in relation to the ecological value of the site and that the site could be grazed without further consent. However, there is little assessment of the effects of the development, detail of landscaping, or other mitigation or enhancement measures to ensure net gains for biodiversity and the retention of a resilient ecological network.
25. The appellant refers to tree planting and the arboricultural assessment for the earlier scheme indicates some supplementary planting within the higher part of the field. However, there is little detail provided as to the nature and extent of such planting, or whether that would offset any adverse effects of the development. I cannot therefore be sure that the proposal would appropriately protect or mitigate losses of trees or other biodiversity assets, including the function of the green space within the wider network.
26. For the above reasons, I find the scheme would conflict with Policies LP30 and LP33 of the KLP as they seek to ensure that development proposals maintain the integrity and continuity of the Wildlife Habitat Network, protect the nature conservation value of the land affected and without threat to trees of significant amenity value.

Highway safety

27. The proposed combined driveway and pedestrian access to serve both properties would lie on the outside of a shallow bend in Dunford Road. Vehicles leaving the site would do so from a gap in the roadside retaining wall. In order to achieve standard visibility splays for the access, the roadside wall would need to be reduced in height, or realigned, to provide adequate visibility for the emerging drivers.
28. As I have previously found, the effect of reducing or realigning the wall to the north of the access may interfere with protected trees. The splay is not

therefore proven or capable of being secured by planning condition. To do so would be unreasonable as it could negate the benefit of any permission it was attached to.

29. In the vicinity of the site, the carriageway is relatively narrow. At the time of my site visit, albeit only a snapshot in time, the road was moderately trafficked and, despite parking along much of the opposite side of the road, vehicle speeds were generally uninhibited save for opposing larger vehicles. Without improvement to the sightlines, visibility at the access would be limited. Drivers would need to emerge into the carriageway to achieve adequate visibility. As it is the sightline along the nearside lane which is affected by the location of the trees, any limitation in visibility to the approaching traffic is highly likely to elevate the risk of collision at the proposed access.
30. Access to the site by pavement users would require visitors to cross from the pavement on the opposite side of the road to avoid the necessity to walk along the main carriageway. The visibility on the opposite side of the road would potentially be hindered by the lines of parked vehicles. Pavement users, particularly those unable to easily see past parked cars, would therefore be at some risk, particularly those in charge of young children or with limited mobility. Although there is a no-waiting area about an access between two terraces of buildings on the opposite side of the road, this is offset from the proposed position of the opening into the site. In the absence of a corresponding safe area on the appeal site, this offers little benefit for pavement users.
31. A proposal to provide a bus shelter close to the northern extent of the site would provide a refuge behind the current line of the retaining wall. At present there is no such provision for bus users. I have little doubt that the provision of such a waiting area would be a benefit, notwithstanding that users would also need to cross the road from between parked cars. However, the location close to a protected tree in the adjacent site may be preventative to its delivery. Accordingly, any benefit therein has not been demonstrated. It is therefore a matter of negligible weight in the determination of this appeal.
32. For the above reasons, I find that safe access and egress at the site has not been demonstrated for prospective residents and visitors to the site. It would thereby conflict with Policy LP21 of the KLP as it requires demonstration of effective and safe access for all users.

Conservation Areas

33. The site lies close to the Holmfirth Town Centre and Underbank Conservation Areas (the CAs). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving or enhancing the character or appearance of the CAs.
34. The northern boundary of the site abuts a boundary of the Holmfirth Town Centre CA. The CA primarily consists of fine-grain development on narrow streets following the River Holme corridor. A more dispersed pattern of larger buildings in bigger plots encompasses the surrounding lower valley slopes. The area has a mix of predominantly stone-built dwellings intertwined with notable community and commercial buildings in a pattern strongly influenced by the local topography. The significance of the area derives from its development as a mill town set within a steep valley landscape.

35. Dunford Road follows a tributary valley (River Ribble) leading into the main settlement area set in the River Holme corridor. The steep undeveloped hillside forms part of a semi-rural setting to the nearest part of the CA. Elsewhere the CA is framed by open ground, woodlands and later areas of housing.
36. Although the development would be visible in views into and from the nearest part of the CA, it would be visually separate and distinct from the vernacular buildings within it. I find it would not prejudice the appreciation of the significance of the CA and would preserve the character and appearance of that distinct area.
37. The Underbank CA is centred to the south of the site. The area contains clusters of traditional terraces extending up the hillside about a network of ribbon roads criss-crossing the hillside. The terraces are surrounded by larger residential properties and some large-scale commercial buildings extending along the eastern valley slopes.
38. The site is located a short distance from the northern end of the CA where development is less concentrated and set above the main valley side. Development in this part of the CA can be seen from Dunford Road but the change in levels between those areas is significant. Accordingly, I find the proposal would have a neutral effect on the appreciation of the CA, including the views into and out of it. The scheme would maintain a degree of visual separation and retain an undeveloped edge to the Underbank CA.
39. For the above reasons, I find the effects on the character and appearance of the CAs would be neutral. The proposal would be consistent with the requirements of Policy LP35 as it requires development to preserve or enhance the significance of the designated Conservation Areas.

Planning Balance

40. I have found that the proposal would cause harm to the character and appearance of the locality and highway safety. It could prejudice the long-term health of protected trees and the integrity of an ecological network. In addition, it would adversely affect the setting of a Grade II listed building.
41. The scheme would deliver 2 residential units which would contribute to the housing supply in the locality. Furthermore, the buildings are designed in a manner to help mitigate climate change. These would be benefits of the development.
42. The proposal to provide a waiting refuge close to the existing bus stop has not been demonstrated as a viable prospect having regard to its potential effects on protected trees. It is therefore a matter of limited weight in the appeal.
43. As requirements of the development plan, the accessibility of the site to public transport, local facilities and services, and the provision of high standards of amenity for prospective and existing residents are not benefits in favour of the proposed development. I acknowledge the appellant's contention that the site is unused and appears unkempt. However, the use and appearance of the land are not necessarily dependent on the specific detail and design of the proposal before me. Accordingly, I find this is a matter of limited weight in support of the development.

44. Taking all of the above together, I find the public benefits would not outweigh the harm caused to the setting of the heritage asset. Moreover, despite the Government's objective of significantly boosting the supply of homes, the benefits associated with the proposal are limited and they would not outweigh the totality of the harm I have identified.

Other Matters

45. I note the other areas of concern raised by third parties. However, pursuant to my findings on the main issues, my decision does not turn on those matters.
46. I acknowledge the frustrations expressed by the appellant in relation to the level of communication from the Council leading up to this appeal. I also note that, despite validating the planning application, the Council did not necessarily pursue additional information from the appellant to support various aspects of the proposal. However, these are not matters for this appeal which I have determined on its own merits and on the basis of the evidence before me.

Conclusion

47. Notwithstanding my finding in favour of the appellant with regard to the effects on the nearby Conservation Areas, the proposal would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

R Hitchcock

INSPECTOR