



Appeal Decision

Site visit made on 1 February 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 March 2022

Appeal Ref: APP/Z4718/W/21/3281141

April Court, Roberttown, Liversedge WF15 7RB

- 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 L Swales against the decision of Kirklees Metropolitan Council.
 - The application Ref 2021/62/90564/E, dated 10 February 2021, was refused by notice dated 4 June 2021.
 - The development proposed was originally described as 'erection of one detached dwelling. Erection of detached domestic garage.'
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application was subject to amendments during its consideration by the Council. Specifically, amended plans were submitted which omitted the proposed garage and reduced the height of the proposed dwelling. Both main parties confirm that the proposals were determined on the basis of the amended plans, and therefore did not consider the proposed garage. The Council indicates in its delegated report that these were 'minimal' changes for which further public consultation was not deemed necessary. Given that the amended plans show a reduced size and spread of development, I am satisfied that interested parties would not be prejudiced by my taking the amended plans into account.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of neighbouring occupants on Huddersfield Road, with particular reference to outlook, overbearing and sense of enclosure.

Reasons

4. The appeal site is an area of undeveloped and overgrown land to the rear of the cul-de-sac of April Court, between the rear gardens of dwellings on Huddersfield Road and Lumb Lane, on which a detached dwelling is proposed. Planning permission was granted in September 2020 for a two storey dwelling on the land, under Council Ref 2019/62/93605/E, following a long history of applications being refused, some of which were also dismissed at appeal. However, the principle of residential development on the site has now been accepted, and this extant permission represents a fall-back position for the appellant, to which I have had regard as a significant material consideration.

5. The proposed dwelling would be larger in footprint than that previously approved, but would be very slightly lower in height. The proposed scheme differs in the orientation of the dwelling, with the side elevation now standing parallel to the rear elevations of dwellings on Huddersfield Road, whereas under the approved scheme, the dwelling was positioned at an angle such that neither the side nor rear elevations would directly address the neighbouring dwellings. The Council argues that the proposed dwelling, due to its size and orientation, would have a more overbearing and oppressive impact on neighbouring properties than the approved scheme.
6. The appellant refers to the Housebuilders Design Guide Supplementary Planning Document (June 2021) (the HDG), adopted since the application was refused. For two storey houses, the HDG advises typical minimum separation distances of 12m between windows of habitable rooms that face onto windows of a non-habitable room. The gap under the previously approved scheme between the nearest dwelling, 212 Huddersfield Road, and the nearest corner of the proposed dwelling was given as 12m, with the windows further back and not directly facing the neighbouring dwellings. The current plans also show 12m separation, albeit with the whole of the side elevation at this distance, rather than a single corner. However, the plans do not show the ground floor conservatory to No 212 which would stand closer than 12m.
7. I note that the HDG lists several design solutions that would allow for a *reduced* separation distance between buildings than those set out in the guidance. Other circumstances are set out where longer distances between buildings may be necessary, but these are not applicable to the appeal scheme. The guidance is therefore tolerant of distances below the stated minimums in certain cases. However, the use of the word 'typical' in the HDG implies that the stated distances may not be sufficient in every case. Ultimately, the effects on neighbours' living conditions must be determined with respect to the specific site circumstances and not on measurements alone.
8. The proposal would alter the outlook for neighbouring occupants relative to the approved scheme. The approved scheme is orientated such that no elevation would present its full massing directly towards dwellings on Huddersfield Road. Having regard to the approved plans, the degree to which outlook would be reduced in views from No 212 in particular is limited, whilst the angling of the walls of the approved dwelling away from neighbouring properties would maintain a greater sense of space around the dwelling and would reduce the sense of enclosure felt by adjoining occupants.
9. In contrast, the proposed dwelling would present the full width and height of its longest elevation directly behind No 212, and slightly offset to No 214. At 10m wide, 4.75m to the eaves and 6.6m to the roof ridge, this would be a substantial structure that would dominate the rear view from Nos 212 and 214. This expanse of wall would significantly reduce outlook compared to the approved scheme, in particular from rear gardens and the conservatory of No 212, a space where occupants would expect to sit and take in rearward views, and which would clearly be closer than 12m from the proposed dwelling. In this respect, I find that the angled orientation of the approved scheme generally accords with the guidance of the HDG on reduced separation distances but the scheme now before me would not.

10. Moreover, the side elevation, given its size, would form an imposing structure that would overbear on the neighbouring properties and would significantly increase the sense of enclosure and shadowing of adjacent rear gardens and windows compared to the more open layout of the approved scheme. Whilst there are a number of sizeable outbuildings to the rear of dwellings on Huddersfield Road, these are low in height and allow clear outlook beyond them over the appeal site, such that they would not have any discernible effect in screening the proposed dwelling from view or mitigating its overbearing scale. The proposed dwelling would also be prominent in views from other dwellings on Huddersfield Road, but at greater distances and oblique angles, such that the effects in terms of reduced outlook and increased enclosure would not be so significant as to materially harm living conditions for those occupants.
11. I acknowledge that the proposed dwelling would be slightly lower in height than that previously approved, both overall and to the eaves, and that the arrangement of windows would not result in windows of habitable rooms facing each other. However, the differences in height would be marginal, and would not offset the significant change in impact resulting from the re-orientation of the dwelling. Similarly, windows in the approved dwelling would not directly face those to the rear of dwellings on Huddersfield Road. I also note the claimed benefit of the windows to the front elevation no longer directly facing properties in April Court. However, these changes in fenestration would provide only modest improvements over the approved scheme in terms of the potential for overlooking, which would not be sufficient to offset the harms identified.
12. Therefore, whilst I recognise that the proposal has sought to comply with the guidance of the HDG on separation distances, my assessment of the site and its surroundings indicates that this alone would not be sufficient to avoid harm to neighbouring occupants in Huddersfield Road by reason of loss of outlook, overbearing impact, increased sense of enclosure and overshadowing.
13. The Council also considered the effect of the proposal on occupants of dwellings in Lumb Lane. There would be separation of between 12m and 14m, with the dwelling on this side having an angled orientation with windows not directly facing neighbouring dwellings, and those at first floor level serving either bedrooms or bathrooms, such that harmful overlooking is unlikely to occur. Having regard to the site and the provisions of the HDG, I am satisfied that there would be sufficient separation to dwellings on Lumb Lane so as to prevent undue loss of light or a harmful overbearing effect.
14. The dwellings within April Court are separated from the site by the access road and parking around the head of the cul-de-sac. The front elevation of the dwelling would contain windows to habitable rooms; however neighbours would view the proposed dwelling across the public realm at a distance of at least 13m. Given this intervening public space, I am satisfied that the proposal would not result in harmful overlooking of residents of April Court, nor adverse effects from loss of light or outlook, or increased enclosure.
15. However, for the reasons set out, I conclude that the proposal would cause significant harm to the living conditions of occupants of 212 and 214 Huddersfield Road, and so would conflict with Policy LP24 of the Kirklees Local Plan (February 2019) which seeks high quality design in all developments that,

among other things, provide a high standard of amenity for future and neighbouring occupiers.

Other Matters

16. The appellant states that a larger dwelling is proposed due to concerns as to the viability of the approved two-bedroom dwelling, on the basis of it being less appealing to the family market. However, no evidence has been adduced by the appellant to substantiate this claim, nor has it been demonstrated that the appeal scheme is the only design which could achieve a three bedroom dwelling on the site. As such, I afford limited weight to these comments.
17. As set out above, the approved scheme represents a significant fall-back position for the appellant. However, I have found that it would not represent a demonstrably more harmful scheme than the current proposal. Therefore, it would not merit favourable weight being attributed to the current scheme as a less harmful alternative.
18. The Council did not oppose the appeal scheme on the basis of the effect on the character and appearance of the area. From what I saw, the dwelling would reflect the prevailing scale and appearance of the surrounding built form and would make efficient use of a presently surplus parcel of land. Moreover, I am satisfied that it would be proportionate to its site, with sufficient garden area retained to the rear and space for parking in front.
19. The Council made no findings of harm with respect to highway safety, parking, ecology, flood risk and drainage and carbon emissions, subject in some cases to recommended conditions. I acknowledge several comments from interested parties, particularly in respect of the parking situation in April Court. However, given my findings on the main issue, it is not necessary for me to consider these matters further, as they would not alter the outcome of the appeal.

Planning Balance and Conclusion

20. The proposal would deliver an additional family-sized dwelling for the Council's housing stock in an accessible location; however, this would make a very modest contribution to the overall housing target and therefore would attract only limited weight in favour of the proposal. The productive use of presently surplus land for housing would also be a minor benefit of the proposal.
21. There would be benefits arising from the economic activity generated for the local building trade in implementing the development, and from engagement by future occupants in the local economy. However, given the scale of the development, such benefits would attract limited weight.
22. For the reasons set out above, the proposal would conflict with the development plan, taken as a whole. I afford significant weight to this conflict. Material considerations in this case, including the identified benefits taken cumulatively, are not of sufficient weight to indicate that the appeal should be decided other than in accordance with the development plan.
23. Therefore, I conclude that the appeal should be dismissed.

K Savage

INSPECTOR