



Appeal Decision

Site visit made on 28 February 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2023

Appeal Ref: APP/Z4718/W/22/3307653

Land at Golcar Brow Road/Badger Close, Meltham HD9 5LB

- 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 Lee Gardner against the decision of Kirklees Council.
 - The application Ref 2022/62/91497/W, dated 3 May 2022, was refused by notice dated 19 August 2022.
 - The development proposed is detailed application for 1no dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the area; and
 - whether the proposal would provide acceptable living conditions for future occupiers with regard to outdoor amenity space and privacy.

Reasons

Character and Appearance

3. The appeal site is quite a small triangular piece of land on a corner site between Golcar Brow Road and Badger Gate in a mainly residential area. The site slopes downwards from Golcar Brow Road and narrows sharply to a point at the rear.
4. There is some variety in dwelling forms within the immediate area. Opposite Golcar Brow Road from the site is a row of reasonably sized two storey terraced dwellings. A second row of terraced dwellings lies further along the road, with a pair of semi-detached two storey dwellings and a three storey detached dwelling separating the two rows. There is a more spacious grain of built development on the same side of the road as the site, with a number of detached dwellings sitting within quite wide plots.
5. The materials proposed for the dwelling would be in keeping with that used on other buildings in the vicinity. Although car parking provision would be to the front, given the sloping nature of the site and the screening that would be provided by the front boundary wall, it would not unduly dominate the streetscape. It would be possible to provide some screening for the waste bins.

6. Nevertheless, the proposed development would not sit comfortably in the street scene. The position of the dwelling within the plot, being at a slight oblique angle, would be inconsistent with the usual built form of the other properties in the vicinity that front on to Golcar Brow Road. Furthermore, the splayed edge of the side elevation would exacerbate the narrow and diminutive appearance of the dwelling, as would a number of the design features including the number and positioning of the window openings within the narrow width of the dwelling, and the noticeably lower ridgeline. As a result, the dwelling would appear contrived and visually cramped on the restricted site. The proposal would therefore result in an incongruous development.
7. The appellant contends that a common characteristic of residential development around the site is limited gaps between properties, with the nearby Badger Brow and terraced dwellings given as examples. The properties on Badger Brow sit on relatively wide plots and while a number have built development quite close to their boundaries, it is mainly in the form of a single storey garage with open space above, therefore maintaining some sense of space around the properties. While there are clearly no gaps between the individual dwellings within the nearby terraces, there are reasonably sized spaces between the terraces and the other properties on this side of Golcar Brow Road. In neither case do the buildings appear cramped or squeezed into their surroundings.
8. For the reasons given, I conclude that the proposal would significantly harm the character and appearance of the area. Consequently, it would conflict with Policies LP1, LP2 and LP24 of the Kirklees Local Plan, adopted 2019 (the Local Plan). In summary, these policies seek to deliver sustainable development and to protect and enhance local character amongst other matters. The proposal would not adhere to the advice in principles 5, 14 and 15 of the 2021 Housebuilders Design Guide Supplementary Planning Document (the SPD) which advise that buildings should form a coherent building line and the design of windows, doors and rooflines should relate well to the site context. There would also be conflict with the design objectives of chapter 12 of the National Planning Policy Framework (the Framework) and the National Design Guide.
9. Reason for refusal one on the Council's decision notice refers to a conflict with principles 11, 12 and 13 of the SPD. In my view, principle 11 is not directly relevant to the proposal as it relates to street design, and for the reasons stated above, I do not find a conflict with the advice in principles 12 and 13 which relate to parking and materials. However, this does not alter my conclusion on the main issue.

Living Conditions

10. The proposal would include outdoor amenity space to the rear. I have not been referred to any quantitative standards for outdoor amenity space. Nevertheless, while appreciating that not everyone may desire a large garden, the provision of a satisfactorily sized area of useable private space is important to enable onsite recreational activity such as sitting out and / or gardening, and for other outdoor requirements such as drying clothes.
11. The outdoor amenity area would be very small, with limited space to accommodate typical garden activities. This would be exacerbated by its triangular shape and narrowness, which would greatly limit the use that it could be put to. Notwithstanding that there may be a reduced expectation for

outdoor amenity space when it comes to one-bedroom properties, future occupiers of the proposed dwelling would experience an environment lacking in satisfactory private outdoor amenity space. While the internal living arrangement would be acceptable, this would not mitigate the inadequate outdoor amenity space provision.

12. I note the appellant's argument that the amenity standards would be greater than most starter properties including apartments with no private amenity space and terraced properties where minimum garden sizes and overlooking dominate. However, the lack of outdoor amenity space in other properties would not justify a deficiency in this case.
13. It is not unreasonable to expect a degree of oblique overlooking of neighbouring gardens. However, the conservatory and balcony of 4 Golcar Brow Road sit close to the site. Given their proximity to the lounge window of the proposed dwelling, there would be potential for residents of no. 4 to have close views into that window. As such, the proposed layout would not provide future occupiers with a reasonable level of privacy. I have considered whether a condition could be imposed to require details of screening along that boundary to prevent views into the ground floor window. However, due to the proximity of any fence or screen, I cannot be satisfied that it would not harmfully affect outlook for future occupiers or residents of no. 4.
14. I therefore conclude that the lack of privacy and appropriate useable outdoor amenity space mean that the proposal would not provide acceptable living conditions for future occupiers. Accordingly, it would fail to accord with the residential amenity requirements of Policy LP24 of the Local Plan and chapter 12 of the Framework, as well as the guidance on residential amenity and private outdoor space in principles 6 and 17 of the SPD. There would also be conflict with the general sustainable development principles of Policy LP1 of the Local Plan.
15. Reason for refusal two on the Council's decision notice refers to a conflict with Policy LP2 of the Local Plan. This policy does not include requirements relating to the living conditions of residents. I do not therefore find any conflict with this policy, although this does not alter my findings.

Other Matters

16. The proposal would make use of a site in an area where the principle of residential development is established. It would contribute (numerically) to the supply and mix of housing in the area, including for a size where there appears to be an unmet demand, and in a location that is close to services and facilities. In this regard, I note the Government's objective to significantly boost the supply of homes set out in the Framework. There would also be some economic benefits during construction and occupation, for example via new residents bringing trade to the area. However, the weight that I can ascribe these benefits in terms of one dwelling is inevitably limited.
17. The Council's officer report identifies that there is more than five years supply of deliverable housing sites 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.

18. The Framework defines previously developed land in its Glossary as excluding *'land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape'*. The application form describes the current use of the site as garden land. In addition, the Council's officer report identifies that, based on 2019 street view photographs, the site hosted a garage, shed and area for growing produce. The shed and garage have been removed and any remnants have blended into the site. Accordingly, I do not agree that the site would be classed as previously developed land.
19. Although the site is currently vacant, at the time of my visit it was not unduly untidy and did not represent an unsightly feature in the street scene. However, I appreciate that the appellant seeks to make efficient use of the site 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 site would not be suitable for the development proposed.
20. The appellant has identified a number of other Local Plan policies and Framework paragraphs relating to matters including the living conditions of neighbouring occupiers, highway safety, parking and the location of new development that it is contended that the proposal would accord with. While this may be the case, a lack of harm in other respects is effectively neutral in the planning balance.
21. The appellant's supporting evidence refers to an application¹ granted permission by the Council which it is contended raised similar issues to the appeal scheme, and an outline permission² on a nearby site which it is contended sets a precedent for infill development in Meltham. However, the limited information that is before me on the first example indicates that the circumstances in that case were different to this proposal. I have no information on the circumstances relating to the second example. In any event, I have considered this appeal proposal on its own merits and have concluded that it would cause harm for the reasons set out above.
22. I note the appellant's concerns regarding the Council's handling of the case. However, in determining this appeal, I am only able to have regard to the planning merits of the case.
23. None of these other matters outweigh my conclusion on the main issues.

Conclusion

24. The proposal would conflict with the development plan taken as a whole as well as the Framework. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. Therefore, for the reasons given, the appeal should not succeed.

F Wilkinson

INSPECTOR

¹ Reference 2021/62/94632/E

² Reference 2020/60/93251/W