



Appeal Decision

Site visit made on 28 February 2023

by K Allen MEng (Hons) MArch PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 30th May 2023

Appeal Ref: APP/Z4718/W/22/3313257

Stoney Croft, 15 Park Head Lane, Holmfirth, Kirklees HD9 2LB

- 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 Mat O'Brien against the decision of Kirklees Council.
 - The application Ref 2022/62/92851/W, dated 24 August 2022, was refused by notice dated 10 October 2022.
 - The development proposed is erection of detached dwelling and alterations to parking arrangements.
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Decision

1. The appeal is allowed, and planning permission is granted for erection of detached dwelling and alterations to parking arrangements at Stoney Croft, 15 Park Head Lane, Holmfirth, Kirklees HD9 2LB in accordance with the terms of the application, Ref 2022/62/92851/W, dated 24 August 2022, subject to the conditions set out in the attached schedule below.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal site is within an area that is predominantly residential and comprises a prominent, steeply sloping area of garden land adjacent to the highway. While stone and slate are prevalent materials within the area, there is little uniformity in scale of existing properties. Each property appears tailored to its specific site conditions, utilising basements, terraces, and balconies, where appropriate, to make the best use of land and orientated to maximise views across the valley. The variation in scale and orientation contribute positively to the character and appearance of the area.
4. Although the lower ground floor would be set forward of the adjacent property, due to the site's steeply sloping topography and the boundary treatments the lower ground floor would be minimally visible within the street scene. The ground and first floor would also be aligned with Stoney Croft and the proposal would not disrupt the existing building line of the row of properties to the west. Furthermore, given the ridge height would be lower than Stoney Croft, when viewed from the south the proposal would appear two storeys in height, in keeping with the properties to the west.
5. While a terrace would be created by the misalignment of the lower ground and ground floor elevations, the resultant path would mirror the access path to the

principal elevation of Stoney Croft. Similarly, the proposed feature gable and the design of the openings would distinguish the southern elevation as the principal elevation, regardless of the lower ground floor, and would complement the architectural detailing of the adjacent properties.

Consequently, the proposal would successfully integrate with the properties to the west which have principal elevations to the south.

6. The Council have referred to a previously approved outline application¹ with access and layout considered. While the drawings do not indicate a lower ground floor, scale and appearance were reserved matters in this application and the drawings must be considered indicatively in this regard. Furthermore, the proposed dwelling is positioned forward of the principal elevation of Stoney Croft and significantly closer to the highway, which would harm the character and appearance of the area. There would be a greater than theoretical possibility of the previous permission being implemented if the appeal is dismissed. Therefore, in considering the negative effects of the fallback position against the current proposal, I give the fallback position considerable weight.
7. With regard to the above, I conclude that the proposal would be in keeping with the character and appearance of the area. Consequently, I find no conflict with Policies LP1, LP2, LP11 and LP24(a) of the Kirklees Local Plan Strategy (February 2019) (KLP) and Policies 1 and 2 of the Holme Valley Neighbourhood Development Plan (NDP) 2021-2031 (December 2021) which collectively seek to ensure development is of a high quality, and that form, scale, layout and details respect the character of an area. The proposal would also conform with Principles 2 and 5 of the Housebuilders Design Guide SPD (June 2021) where they promote working with site topography, the effective use of boundary treatments and links to surrounding built form.
8. Similarly, there is no conflict with the National Planning Policy Framework (the Framework), chapter 12, where it requires development to optimise the potential of a site, while remaining sympathetic to local character and visually attractive as a result of good architecture.

Other Matters

9. I note concerns raised regarding restrictive covenants and construction noise, however planning permission does not negate or supersede any private legal rights relating to land ownership nor has it had a bearing on my assessment of the main issue in this appeal. Further, the noise generated during the construction period would be limited and there is nothing to suggest that there would be a negative impact on the living conditions of neighbouring occupants.
10. I have had regard to the Holme Valley Parish Council's objection based on sustainability and renewable energy grounds, however a suitably worded condition could be imposed that would accord with Policy 12 of the NDP.
11. The appeal site is located within a Bat Alert Area, however from the evidence before me and due to the design of the proposal it would be unlikely that roosting bats would be present during the construction works. The Council have not raised any concerns on this matter, and I have no reason to disagree with their assessment. Nonetheless, in order to safeguard and enhance biodiversity in accordance with Policy LP30 of the KLP and Policy 13 of the NDP a suitably

¹ 2020/90962

worded condition could be imposed for the integration of a bat roosting feature on the new dwelling.

Conditions

12. I have considered the conditions put forward by the Council and comments from the appellant, against the Framework and PPG. For clarity, precision and to ensure compliance with the PPG, I have undertaken some minor editing and rationalisation.
13. A condition specifying the time limit [1] and approved plans [2] is necessary as this provides certainty. I have imposed a condition specifying materials are to be agreed, in order to safeguard the character and appearance of the area [3]. A condition requiring a sustainability and energy statement is necessary, in the interests of sustainability and mitigating climate change [4].
14. I have imposed conditions to confirm the development functions correctly and in the interests of highway safety, further details are to be agreed between the parties regarding the retaining walls [5] and parking area [6]. To ensure that the privacy of the occupiers of the neighbouring properties is preserved a condition is imposed regarding the appearance of the first-floor side facing window [7]. An electric vehicle charging point is necessary to promote sustainable transport [8], and in the interests of enhancing opportunities for biodiversity, a condition is imposed for an integrated bat box [9].
15. I have not imposed the Council's suggested conditions regarding a full structural dilapidation survey of the existing retaining wall as this would not be reasonable and would place unnecessary burden on the appellant. Nor have I imposed a condition to retain an easement strip as due to the position of the proposal this would not be enforceable.

Conclusion

16. For the reasons given above, I conclude that the proposal would accord with the development plan read as a whole and the Framework, therefore the appeal is allowed.

K Allen

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 21102D-11-P05 site plan as proposed
 - 21102D-14-P06 general arrangement as proposed
 - 21102D-15-P03 valley view
 - 21102D-16-P03 Greenfield Road view
 - 21102D-17-P03 Park Head Lane view

- 3) Prior to any development above ground works, details of all external facing materials to be used in the construction of the dwelling and the retaining walls, shall be submitted to, and approved in writing by the local planning authority. Prior to occupation, development shall be carried out in accordance with the approved details.
- 4) Prior to any development above ground works, a Sustainability and Energy Statement, outlining renewable energy sources, sustainable design, and energy efficiency, shall be submitted to, and approved in writing by the local planning authority. Prior to occupation, development shall be carried out in accordance with the approved details.
- 5) Prior to the new retaining walls/ building retaining walls shown on drawing 21102D-11-P05 being constructed, a scheme detailing the location and cross-sectional information together with the proposed design and construction details of all new retaining walls/building retaining walls, shall be submitted to, and approved in writing by the local planning authority. Prior to occupation, development shall be carried out in accordance with the approved details.
- 6) Prior to the parking and turning area shown on drawing 21102D-11-P05 being constructed, a scheme detailing the surfacing and drainage of the parking and turning area, shall be submitted to, and approved in writing by the local planning authority. Prior to occupation, development shall be carried out in accordance with the approved details.
- 7) Prior to occupation, the first-floor windows within the western side elevation of the dwelling hereby approved, to serve the ensuite shown on drawing 21102D-14-P06 shall be fitted with obscure glazing minimum grade 4. Notwithstanding the provisions of Section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), the window shall thereafter be so retained obscurely glazed.
- 8) Prior to occupation, one electric vehicle charging point shall be provided within the parking and turning area. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16Amps and a maximum demand of 32Amps. An electric vehicle charging point shall thereafter be retained in perpetuity.
- 9) Notwithstanding the approved plans, 1 integral bat box, similar to the Schwegler type 1FR bat boxes, shall be installed, during the period of construction and prior to any occupation of the dwelling, on the northern elevation at least 6 metres above ground and not directly above doors or windows. Thereafter the bat box shall be retained in perpetuity.

*****End of Conditions*****