



Appeal Decision

Site visit made on 20 June 2023

by F Rafiq BSc (Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2023

Appeal Ref: APP/Z4718/W/22/3307383

Land adjacent to 146 Commercial Road, Skelmanthorpe HD8 9DS

- 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 T Sprott (Silverwood and GNS Property) against the decision of Kirklees Council.
- The application Ref 2022/62/90340/E, dated 1 February 2022, was refused by notice dated 20 May 2022.
- The development proposed is the erection of 1 no. detached property.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on (i) the living conditions of neighbouring occupiers at 1 Poplar Rise with regard to outlook, and (ii) the character and appearance of the area.

Reasons

Living Conditions

3. The appeal site includes an area of land adjacent to 146 Commercial Road. To the west, the appeal site is bounded by the rear gardens of properties on Poplar Rise.
4. The appeal proposal would have a hipped roof and has been reduced in scale when compared to a scheme that formed part of a previously dismissed appeal¹. Although it would be lower in height, with the hipped roof falling away from the neighbouring dwelling at 1 Poplar Rise, the proposed dwelling would be sited close to the boundary with this neighbouring property and extend over 10 metres along it. The proposal would exceed the 12m separation distance advised in the Kirklees Housebuilders Design Guide Supplementary Planning Document (SPD) to the habitable room windows on the rear elevation of No. 1. However, given the close proximity to this neighbouring property's boundary, and its garden area, as well as No. 1 being at a lower level than the appeal site, the development would have an overbearing impact on the users of this neighbouring garden.
5. A number of sun diagrams have been provided. Whilst these show the position of the sun at different times of the year, they do not demonstrate the effect the proposed development would have on natural light in the garden and other areas of No. 1.

¹ Ref: APP/Z4718/W/22/3290231

6. Nevertheless, even if there was no harmful impact on natural light, I conclude that the proposed development would have an unacceptable harmful impact on the living conditions of neighbouring occupiers at 1 Poplar Rise with regards to outlook. As such, it would conflict with Policy LP24 of the Kirklees Local Plan Strategy and Policies (Local Plan), the SPD and Paragraph 130 of the National Planning Policy Framework (Framework), which seek, amongst other matters, a high standard of amenity for future and neighbouring occupiers.

Character and Appearance

7. The appeal property is in a predominantly residential area where a range of houses of varying styles can be seen. Buildings are generally set back behind garden areas, many of which contain trees and planting that contributes to the pleasant, spacious character of the area.
8. The appeal proposal would result in a reduction of space between the existing building at 146 Commercial Road and 1 Poplar Rise. I recognise that the space between buildings can make a positive contribution to local character, but as the Council has set out, there is no set pattern in terms of spacing in the area. Despite the appeal proposal being close to the boundary with No. 1, the rear garden of this neighbouring property would continue to provide space between it and the appeal building.
9. The appeal dwelling would have a hipped roof form but given the variety in roof designs in the area, which includes properties with hipped roofs nearby, I do not consider the roof design would appear at odds with the prevailing character. The overall height of the dwelling would be in between the heights of 146 Commercial Road and 1 Poplar Rise and would therefore reflect the changes in levels along Commercial Road.
10. I therefore conclude that the proposed development would not have an adverse effect on the character and appearance of the area. As such, it would not conflict with Local Plan Policy LP24 or the SPD, which seek, amongst other matters, good design that respects and enhances the character of the townscape.

Other Matters

11. The proposal would provide an additional dwelling in an accessible location on a small site that would make a positive contribution to the supply of housing in the district. The development would also incorporate various energy efficiency measures, in some instances exceeding Building Regulation requirements.
12. The development would provide sufficient cycle and car parking, with suitable provision for refuse collections and adequate visibility. The design has been carefully considered, ensuring inclusive access and that the materials and elevational design reflect the buildings in the locality. The site is not at significant risk from flooding, from contamination or other environmental factors and no existing utilities would be affected by the proposed development. These are all however neutral matters and not ones which weigh in favour of the development.
13. Reference has been made by the appellant to discussions with the Council during the course of the application subject of this appeal. This appeal follows the Council's formal decision, and I can confirm that I have dealt with it accordingly, on its own merits.

Conclusion

14. The provision of a single net additional dwelling on this site would make a small positive contribution to the area's mix and supply of housing. I attach limited weight in favour to this, and to the energy efficiency measures given the scale of the proposed development.
15. The proposal would not be harmful to the character and appearance of the area. This and other referenced matters are however neutral considerations and not ones which weigh in favour of the development.
16. I have found that the proposed development would be harmful to the living conditions of neighbouring occupiers. This harm would be long lasting and would be contrary to the Framework. As such, the benefits of the proposal would not outweigh the identified harm.
17. The proposed development would not accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this. I conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR