



Appeal Decision

Site visit made on 17 October 2023

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2023

Appeal Ref: APP/Z4718/W/23/3319157

5 - 7 Wasp Nest Road, Fartown, Huddersfield, West Yorkshire HD1 6HA

- 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 A Hafiz against the decision of Kirklees Metropolitan Council.
 - The application Ref 2022/62/93952/W, dated 7 December 2022, was refused by notice dated 15 February 2023.
 - The development proposed is change of use of ground floors from dwellings to Use Class E (Commercial, Business and Service Use) and alterations to convert the upper two storeys to independent maisonettes including additional parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the site is in a suitable location for main town centre uses, having particular regard to the sequential test, and
 - the effect of the development on the character and appearance of the area.

Reasons

Suitable location

3. The appeal relates to a pair of semi-detached dwellings. The immediate area is predominantly residential, though there are nearby commercial properties and a school.
4. Policy LP13 of the Kirklees Local Plan Strategy and Policies document (KLP) (2019) establishes a hierarchy of defined centres into which main town centre uses should be focussed. The site is not located within any defined centre but is roughly equidistant from three 'Local Centres'; Birkby, Fartown and Hillhouse. Policy LP13 requires a sequential test to be carried out for any main town centre use not within a defined centre. This should demonstrate that there are no suitable and available sites or premises within centres that could accommodate the proposal.
5. The proposal is for a Class E use, with no indication of any specific end user. Class E includes uses defined as 'main town centre uses' and thus the requirements of this policy should be adhered to.
6. The appellant's evidence focusses on the perceived 'need' for additional floorspace in the area, the merits of out of centre floorspace, for example in

terms of preferential rents, and the benefits of this location, in particular that it would act as an extension to an existing centre. In terms of this latter point, I do not consider that this would form a natural extension to any of the nearby centres. While there are other 'out-of-centre' commercial units in the area, there is a sufficient gap and change in character to discern that the appeal site is clearly separate to, and separated from, existing Local Centres.

7. While the evidence provides useful context, it does not adequately address the requirements of the sequential test. Firstly, it does not convincingly explain why the vacancies it has identified are not suitable or available for the proposed use. Given there is no indication of the type of operator that is expected, it is not sufficient to compare the scale of properties. It is possible that any 'need' could still be met within smaller units. Similarly, the fact that units may need internal works should not rule out occupation, especially as similar works may be needed to fit out the development. Finally, as the policy seeks to maintain the vitality and viability of defined centres, the opportunity to provide cheaper accommodation that may draw trade or occupiers away from such centres is not a valid justification for increasing the amount of out-of-centre floorspace.
8. The Council's officer report outlines several concerns regarding the robustness of the evidence, in terms of the scope of the exercise and the location of units considered, some of which are not in centres themselves. Moreover, the Council's evidence includes relatively recent survey data and the results of their own research into vacancies. This suggests there may be more potential opportunities to accommodate the proposal within an existing centre than indicated by the appellant. The appellant has not sought to rebut or challenge the Council's information. As such, I have no reason to conclude that it is not a reasonable and realistic assessment of possible opportunities that may exist.
9. Taking all of this into account, I am not persuaded that there are no suitable premises within nearby Local Centres which could accommodate the proposed use or, consequently, that the sequential test has been passed. I therefore conclude that this is not a suitable location for new main town centre uses. The development would conflict with KLP Policy LP13 which seeks to focus main town centre uses into defined centres. In this regard, it would also conflict with the requirements of Chapter 7 of the National Planning Policy Framework (the Framework).

Character and appearance

10. The existing dwellings are stone built, with full height bay windows to one side of their main entrances. The proposal would result in the insertion of additional doors into the ground floor bays. These would provide access to the 'Class E' units. The original front doors would remain in place and provide access to the residential accommodation at the first floor.
11. While there would be no 'shop front' as such, and the plans do not identify any signage, the development would still significantly alter the character of the building. The appearance of four front doors arrayed across the front of what was clearly designed as a pair of semi-detached dwellings would appear as an unduly incongruous feature. While there is no homogeneity of design in the immediate vicinity of the site, I saw nothing that was similar to what is proposed. The full height bay is not reminiscent of a porch, and the multiple front doors would not be comparable to existing dwellings in the area. Rather,

the development would constitute an unusual, prominent and discordant alteration to the building.

12. There are other commercial properties nearby. Nevertheless, these assimilate into the built form more successfully than would be the case here, where the alterations would detract significantly from the appearance of the building.
13. The frontage of the dwellings are already predominantly used for parking. The proposal would seek to expand this to provide space for an additional 'visitor' parking space. In isolation, this may have a limited impact on the overall street scene. However, in combination with the alterations needed to accommodate the commercial use, and the change in character this would entail, including additional comings and goings, the alteration to the parking area would serve only to exacerbate the harm caused. In coming to this conclusion, I have had regard to the maintenance issues relating to grassed areas, but these are not unusual for a residential property. Moreover, the use of gravel would not soften the increased dominance of hard standing.
14. The site sits within the setting of the Grade II Listed Fartown Birkby Junior School building (referred to in the officer report as Birkby Fartown Community Centre) and is near to the edge of the Birkby Conservation Area (CA). The buildings are fairly close in proximity and from certain angles are seen in the same context, particularly from the direction of Halifax Old Road. The general harm caused would therefore distract and detract from the architectural quality of the listed building and thus its significance. While the harm caused to the asset would be less than substantial and at the lower end of any scale, it would still be a consequence of the poor design of the development.
15. The effect on the significance of the CA is less obvious. The site is outside the CA and does not appear to have any particular role in terms of views into or out of it, or its overall significance. Again, though parts of the CA may be viewed in the same context as the site from some angles, the relationship is not as clear as that with the listed building. Accordingly, I do not consider the development would have any discernible effect on the significance of the CA.
16. This does not however alter the fact that it would still result in an unacceptable harm to the character and appearance of the area and the setting of the listed building. As such, it would conflict with KLP policies LP24 and LP35 which seek, amongst other things, for development to respect the character of the townscape and preserve or enhance the significance of heritage assets. It would also conflict with the Framework which requires good standards of design.

Other Matters

17. The development would provide the potential for new jobs in the area and a degree of economic activity. However, as this would be to the possible detriment of existing centres, any benefits associated with this are questionable. This would not justify the conflict with the development plan or harm to the character and appearance of the area. The public benefits would also not outweigh the harm caused to the setting of the listed building.
18. A lack of harm relating to any other planning matter is neutral and weighs neither for nor against the development. The existence of other commercial units outside defined centres is noted but I have no information as to how

these were approved. I therefore cannot conclude with certainty that they are comparable to the proposal. These do not override the need to be consistent with current development plan policy.

19. In conclusion, the development conflicts with the development plan as a whole and there are no material considerations that outweigh this conflict.

Conclusion

20. For the reasons given above I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR