



Appeal Decision

Site visit made on 31 October 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th November 2023

Appeal Ref: APP/Z4718/W/23/3322169

3 Knowler Hill, Liversedge WF15 6PH

- 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 Oliver Sharp against the decision of Kirklees Council.
 - The application Ref 2022/62/93518/E, dated 27 October 2022, was refused by notice dated 27 March 2023.
 - The development proposed is a new detached house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the development proposed in the banner heading above is taken from the application form. The Council's evidence identifies that the description was changed with the appellant's agreement to '*erection of detached dwelling, formation of vehicular access and parking areas, and demolition of existing detached garage*'. The Council determined the application on that basis. I have used that description in my decision.
3. The appellant submitted an alternative design with the appeal showing a proposal markedly different in terms of form to that considered by the Council. The appeal process should not be used to evolve a scheme and it is important that what is assessed by the Inspector is essentially what was considered by the Council, and on which people's views were sought. Parties may be prejudiced or caused injustice by my consideration of this revised plan and so I have not taken it into account in my assessment.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of residents of 6 Knowler Hill with regard to privacy and outlook.

Reasons

5. The appeal site is located in a mainly residential area of mixed character and appearance. The dwelling at 6 Knowler Hill sits across the road from the site. It is two storeys with a ground floor window and two first floor windows facing towards the road. Although no details have been presented on the internal layout of no. 6, my observations are that the windows are likely to serve habitable rooms. This property would sit almost opposite the proposed two storey dwelling which would also have windows at ground and first floor facing the road serving habitable rooms.

6. The submitted evidence identifies that the separation distance between the facing windows of habitable rooms to the front of the proposed dwelling and no. 6 would be around 13.5 metres. This would be less than the separation distance of 21 metres between facing windows of habitable rooms at the backs of dwellings advised in Principle 6 of the 2021 Housebuilders Design Guide Supplementary Planning Document (the SPD). Nevertheless, this is guidance and requires an element of judgement on site specific matters.
7. The front windows of the proposed dwelling would be almost directly opposite those to the front of no. 6 which, at first floor level, would lead to unobstructed two-way views. The ground floor window of no. 6 is positioned close to the pavement and so will already experience some loss of privacy as a result, although this would be transient in nature. Nevertheless, the degree of overlooking resulting from both the separation distance and the almost direct aspect of the windows, in particular at first floor level, would lead to an unacceptable loss of privacy for residents of no. 6.
8. There is some scope for overlooking between the dwellings at 3 and 6 Knowler Hill. However, no. 3 is offset from no. 6 to a greater extent than the proposed dwelling would be, and any overlooking would be at an oblique angle. While the existing relationship between 3 and 8 Knowler Hill would be more similar to what is proposed, the Council's evidence highlights that these properties were built before 1890, and so they do not set a precedent that should necessarily be followed in this case.
9. The appellant's evidence identifies that the separation distance between the dwellings at 6 Knowler Hill and 2 Edward Street is less than what would be the case with the proposed dwelling. However, the two first floor windows of no. 6 and the one first floor window of no. 2 in these facing elevations are obscure glazed. While there is one small ground floor window in no. 6 and two ground floor windows in no. 2, it is unclear as to whether they serve habitable rooms. The relationship between these properties is not therefore directly comparable to the proposed development, which I have considered on its own planning merits.
10. Notwithstanding the concerns about privacy, the windows of no. 6 would retain a relatively open aspect. The proposed dwelling would not therefore have an overbearing effect on the outlook from these windows.
11. Consequently, I conclude that, while the proposed development would not have an unacceptable effect on the living conditions of residents of 6 Knowler Hill with regard to outlook, it would unacceptably harm the living conditions of residents of this property with regard to privacy. As such, the proposal would be contrary to the residential amenity requirements of Policy LP24 of the 2019 adopted Kirklees Local Plan Strategy and Policies and paragraph 130 f) of the National Planning Policy Framework 2023. It would also be contrary to the guidance in Principle 6 of the SPD which advises that residential layouts must ensure adequate privacy.

Other Matters

12. The proposal would provide two off-street parking spaces for residents of 3 Knowler Hill in addition to off-street parking provision for occupiers of the proposed dwelling. However, I have no clear evidence that on-street parking

causes an unacceptable impact on highway safety and so this would not outweigh the harm that I have found.

13. The evidence identifies that the site is located within a bat alert zone and within close proximity to the Kirklees Wildlife Habitat Network. The consultation response from the Council's Ecology Unit identifies that as the surrounding area provides suitability for bats and the proposal includes works to the structure of a building, there is a reasonable likelihood of disturbance to roosting bats. In such circumstances, a preliminary roost assessment would normally be required to establish the presence of the protected species and the extent that they may be affected by the proposal. However, no such information is before me. Nevertheless, as I intend to dismiss the appeal for other reasons, I have not pursued this matter further.
14. I note the appellant's concerns regarding the Council's handling of the application. However, in determining this appeal, I am only able to have regard to the planning merits of the case.

Conclusion

15. The proposal would harm the living conditions of residents of 6 Knowler Hill with regard to privacy. Although I have found that the proposal would not cause unacceptable harm to the living conditions of residents of this property with regard to outlook, this is a neutral factor and does not outweigh the harm that I have identified.
16. The proposal would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

F Wilkinson

INSPECTOR