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# Appeal Decision

Site visit made on 2 January 2024

**by R Major BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 January 2024**

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**Appeal Ref: APP/G4240/W/23/3322349**

**Land to rear of 184 Dowson Road, Hyde, Tameside SK14 5BP**

- 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 Muhammad Abdul-Mohid against the decision of Tameside Metropolitan Borough Council.
  - The application Ref 23/00073/FUL, dated 24 January 2023, was refused by notice dated 17 March 2023.
  - The development proposed is detached dwelling house.
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The address within the above banner heading is taken from decision notice as this is a more accurate description of the appeal site than that provided within the application form.
3. Subsequent to the Council issuing its decision the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. The amendments to the Framework do not affect the matters that are in dispute in the determination of this appeal. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.

## Main Issue

1. The main issue is the effect of the proposal on the living conditions of the occupiers of 103 and 105 Knott Lane, and 1 Primrose Avenue, with regard to outlook, daylight and sunlight.

## Reasons

2. The appeal relates to a section of the rear garden area of the dwelling at No.184 Dowson Road. However, being situated to the rear of this property the appeal plot fronts onto Primrose Avenue, which runs parallel to Dowson Road.
3. Directly to the northeast of the appeal plot is a row of three terraced dwellings at Nos. 101, 103 and 105 Knott Lane, and the rear elevations of these properties face towards the appeal site. To the southwest of the appeal site is a detached dwelling at No.1 Primrose Avenue and the side elevation of this dwelling is situated close to the shared boundary with the appeal site.

4. The proposed two-storey dwelling would be orientated with its main front elevation facing Primrose Avenue. One of the proposed dwelling's side elevations would face towards the properties at Nos. 103 and 105 Knott Lane, with the other side elevation facing towards the side of the dwelling at 1 Primrose Avenue.
5. Policy RD5 of the Tameside Residential Design Supplementary Planning Document (SPD) (March 2010) provides guidance on the minimum separation distances between properties, stating that 14m should be provided between habitable windows and a two-storey blank wall.
6. There is no dispute between the parties that the proposed development would not adhere to the 14m separation distance guidance detailed within the SPD. However, the appellant contends that this is only guidance and properties being positioned close together is a defining feature of the area and the proposal would mirror the general pattern of the area, in terms of density and spaces between properties.
7. In respect of this matter, the examples referred to by the appellant are not comparable to the proposal as they relate to dwellings that are orientated in such a way that the side elevations are situated close together. Whereas the appeal proposal would result in the two storey-side elevation of the proposed property being situated in relatively close proximity to the habitable windows in the rear elevation of the properties at Nos. 103 and 105.
8. The siting of the proposed dwelling so close to the side boundary, and these habitable windows, would result in an overbearing impact and sense of enclosure for the occupiers of these neighbouring properties at Nos. 103 and 105 when viewed from the habitable windows in the rear elevations, and their rear garden areas.
9. Although it has not been demonstrated through technical evidence, as a result of the orientation of the proposed dwelling in relation to existing houses, it is reasonable to conclude that lower levels of daylight would reach the rear windows of Nos. 103 and 105 and there would be overshadowing of the rear garden areas. This would be likely to be at a level which would be harmful to the living conditions of the occupiers of Nos. 103 and 105.
10. In respect of the impact of the proposal upon the occupants of No. 1 Primrose Avenue (No.1). Whilst the side elevation of the proposed dwelling would be sited close to the shared boundary, and also the side elevation of this neighbour, I noted during my site visit that the two windows in the side elevation of No.1 are obscurely glazed and thus the proposal would not result in any loss of outlook from these windows.
11. I acknowledge that these windows may be subject to some loss of daylight, as a result of the proposal, however given that they are obscurely glazed I do not consider the living conditions of the occupiers of No.1 would be unduly impacted by the appeal proposal. Furthermore, I observed during my site visit that there are examples on this street of obscurely glazed windows within side elevations situated in close proximity to the side elevation of the neighbouring property. As such, the relationship between the proposed dwelling and No. 1 would not give rise to a loss of outlook or daylight or sunlight such that there would be a harmful impact on the living conditions of the occupiers of No. 1.

12. In view of all the above, the appeal proposal would not have an adverse impact upon the living conditions of the neighbouring occupiers at No.1 Primrose Avenue. However, I conclude that the proposal would result in harm to the living conditions of the occupiers of Nos. 103 and 105 Knott Lane by way of overbearing impact, loss of outlook and daylight, both when viewed from the windows in the rear elevations of these dwellings and their rear garden areas. For these reasons the proposed development would be in conflict with Policies 1.5, H9 and H10 of the Tameside Unitary Development Plan (2004), insofar as they together seek to ensure proposals result in no serious detriment to the character of the area enjoyed by other residents; do not have an unacceptable impact on the amenity of neighbouring properties through overshadowing; and support higher densities where consistent with environmental quality.
13. Furthermore, the proposal would fail to comply with the guidance contained within Policy RD5 of the SPD and is also considered to be contrary to paragraph 135(f) of the Framework which seeks to ensure developments provide a high standard of amenity for existing users.

### **Planning Balance and Conclusion**

14. The Council have confirmed that it is currently unable to demonstrate a 5-year supply of deliverable housing sites. Paragraph 11(d) of the Framework indicates that where the requisite housing land supply does not exist, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
15. The delivery of one additional dwelling in a sustainable location is a social benefit arising from this proposal, as well as positively contributing to the Council's housing land supply, albeit the benefits of a single dwelling would be very modest. Limited economic benefits would also likely arise from employment during the construction works, and occupation of the proposed dwelling through additional expenditure in the area.
16. However, the scheme would give rise to significant harm to the living conditions of neighbouring residents and this harm would significantly and demonstrably outweigh the benefits of the scheme. As such, the proposal does not benefit from the presumption in favour of sustainable development set out in the Framework.
17. The proposal conflicts with the development plan taken as a whole and there are no material considerations to justify a decision otherwise than in accordance with the development plan. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*R Major*

INSPECTOR