
Appeal Decision

Site visit made on 5 December 2023

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 April 2024

Appeal Ref: APP/Z4718/W/23/3324398

143 Kinder Avenue , Cowlersley, Kirklees, Huddersfield HD4 5XD

- 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 Lee Chau against the decision of Kirklees Metropolitan Council.
 - The application Ref 2022/62/93950/W, dated 7 December 2022, was refused by notice dated 28 March 2023.
 - The development proposed is the residential development for 2 dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. The Framework was updated in December 2023, and accordingly for the purposes of this decision I have referred to the latest version of the Framework. The content of the Framework has not been materially altered in respect of the main issue which I have considered. Therefore, it has not been necessary to seek further views from the main parties in this instance.

Main Issues

4. The main issues are the effect of the proposed development upon highway safety with particular regard to parking and access arrangements.

Reasons

5. The appeal site comprises an area of land used for parking several cars for residential properties. It is located adjacent to 143 Kinder Avenue. Kinder Avenue is a straight and wide residential road, with wide footpaths on both sides. There are no parking restrictions along Kinder Avenue and on-street parking on both sides of the road in front of properties does occur. It also

- provides a road access into a housing allocation site which is currently under construction.
6. The proposal for two dwellings would be able to accommodate its own parking requirements in the form of one off street parking space in front of each property. The Highway Authority has confirmed the level of parking provision provided here for the two dwellings is acceptable.
 7. The proposal would remove the area, the appellant advises used informally, for off-street parking for other residential properties which predominantly do not have driveways. The development would therefore be likely to increase on-street parking for these properties.
 8. There is no substantive evidence from the Council that on-street parking is limited, or that Kinder Avenue, or other parking areas would not be able to accommodate the 11 vehicles capable of being parked on the appeal site, which would be displaced as a result of the removal of the parking area. That being said, the appellant's evidence relating to on-street car park capacity is not conclusive. I note the presence of construction parking at the time of the survey, but overall the survey is limited in duration and avoids peak times when most residents may be expected to be at home.
 9. Although existing parking provision on the appeal site is in a remote location, residents are likely to try to park close to their homes as that would be more convenient, particularly for those who are less mobile. It is therefore likely that displaced parking would occur within close proximity to the appeal site, immediately either side of the proposed development parking spaces and opposite the proposed development. Given the absence of parking restrictions, parking could occur on both sides of Kinder Avenue particularly outside and opposite the homes of residents who have had their parking displaced and around the junction with Ladybower Avenue. I consider it could also occur along the newer road layout in the adjacent housing allocation site due to the proximity.
 10. The appellant contends that Kinder Avenue would be wide enough at 8.5 metres to allow two vehicles to pass, even with parked cars on either side. The width of the newly constructed carriageway in the housing allocation site, which the plan¹ provided appears to be narrower. It has not been clearly substantiated whether the carriageway width would be able to accommodate two vehicles passing safely if vehicles were parked on both sides of the road next to and opposite plot 47 of the housing allocation site. Potentially, this could result in vehicles waiting or reversing back along the highway should they meet.
 11. Although some drivers may reverse into the proposed parking spaces of the new development, the likely situation of exiting the site in reverse gear over the pavement would occur. Given the displaced parking is likely to be a regular rather than occasional feature, in all probability, this would often be between parked cars. The Council has not clearly identified what visibility it requires, however, neither has the appellant provided any specific evidence which would objectively establish the extent of visibility. Given the height of parked cars, and their likely proximity to the proposed parking spaces, I consider that

¹ Job: Broadoak Farm Linthwaite, Drawing: No 20 Proposed Site Plan.

- visibility of any driver either exiting in forward, but particularly reverse gear could be restricted.
12. Notwithstanding that Kinder Avenue appeared to be relatively quiet at the time of my site visit, visibility into oncoming traffic, or cyclists approaching the location of the proposed driveways from either direction could be restricted. Whilst the removal of the current bell-mouth junction would represent an improvement for the safety of pedestrians, this is countered by the additional on-street parking which would also make it more difficult for pedestrians to safely cross Kinder Avenue.
 13. In relation to the obstruction of sight lines, I appreciate that the advice contained within the Manual for Streets 2² (MfS2) that drivers emerging from the parking areas would be likely to exercise more caution. However it is not clear whether this relates to all vehicular movements, given this is also stated within the Manual for Streets³ (MfS) in respect of forward visibility section. Even if this is not the case, it is likely that there will be obstructions to visibility which would not minimise the scope for conflicts.
 14. I also recognise that, as set out in the MfS2 in certain circumstances, some encroachment into visibility splays may be acceptable. However, from the extract provided, the guidance relates to the provision of defined bays rather than ad-hoc parking arrangements and the movement of traffic through urban junctions, not to the exiting of vehicles from a residential access/drive, between parked cars and in reverse gear.
 15. I did not witness any localised parking problems, parking congestion, inconsiderate parking, heavy vehicle movements or excessive road speeds. My observations were only a snapshot in time, but they alongside the accident data, and approval of the housing allocation scheme does not suggest that the current road environment is hazardous. That being said, the housing allocation site does not appear to have been completed or fully occupied, and the highway safety records do not take account of this site. As such this limits the weight, I can give to these records.
 16. Whilst I appreciate the guidance contained within the MfS regarding frontage access and on street parking, for the above reasons there is potential for increased conflict between highway users, due to the effect of the displaced parking on the highway and from the use of the proposed parking areas which could have substandard visibility.
 17. In conclude that the proposal would result in harm to highway safety with particular regard to the parking and access arrangements and would therefore conflict with Policies LP21 and LP22 of the Kirklees Local Plan 2019, which requires, amongst other things, that safe and suitable access can be achieved. There would not be a severe cumulative impact on the road network, but there would be a harmful impact on highway safety contrary to the advice within chapter 9 of the Framework which seeks to minimise the scope for conflicts between pedestrians, cyclists, and vehicles.
 18. Noting the emphasis of Principle 12 of the Council's House Builders Design Guide Supplementary Planning Document June 2021, which predominantly

² The Chartered Institution of Highways and Transportation Manual for Streets 2 Wider Application of the Principles 2010.

³ Department for Transport Manual for Streets 2007.

relates to the provision of parking for the proposed development, I do not find substantial conflict with this document in respect of this appeal.

Other Matters

19. My attention has also been drawn to the alleged inconsistencies in the Council's decision between the appeal proposal and a similar development at 113 Kinder Avenue. Again, it is not clear whether the development displaced parking available to other residents, which would create a scenario for increased parking in the immediate vicinity of the site. I also note condition 6, which required measures to prevent planting or anything to be erected over 1 metre in height to enable adequate visibility, which suggests consideration of this matter.
20. However, any lack of objection to another scheme in the vicinity does not overcome the concerns which I have identified above regarding the effect of this proposal on highway safety. In any event, I have determined the appeal proposal on its own merits and found that it would cause harm as outlined above.
21. There is no evidence that the site is underused or not being used for parking, or that its removal is imminent. Although residents have outlined that one parking bay was granted to each dwelling this is a private matter which sits outside the scope of this planning appeal. I do note that the parking area could be removed from use, however this on its own would not be as harmful as the combined effect with the proposed parking arrangements. I therefore attach limited weight to the removal of the parking area.
22. Matters relating to the character and appearance of the area, living conditions of residents of neighbouring properties, the Public Right of Way, anti-social behaviour, crime, flooding, and the cumulative effects of an additional building site are largely identified and considered within the Council officer's report on the appeal scheme when they determined the planning application. I have been provided with no evidence which would prompt me to disagree with the Council's conclusions in these respects. These are neutral matters weighing neither for nor against the appeal.
23. I have no evidence that the Council has a housing shortfall. However, the proposal would make efficient use of a small site that could be delivered quickly and, in doing, so could make a rapid contribution to housing supply and provide economic benefits and broaden the choice of homes in an accessible location. Given the scale of the development proposed, I ascribe moderate weight to these benefits.

Planning Balance and Conclusion

24. There would be benefits from additional housing on a small site that could be delivered quickly and some support from the Framework in this regard. However, I have found that the proposal would have an unacceptable effect on highway safety. The safe and efficient operation of the highway is a legitimate and well-established planning policy aim.
25. Consequently, whilst I acknowledge the benefits in this case, I conclude that they are not of sufficient weight to outweigh the harmful effects of the proposal in relation to highway safety. This would result in conflict with the Framework,

taken as a whole, so overall, the Framework does not weigh in favour of the development.

26. For the reasons given above, I conclude that the material considerations do not indicate that a decision should be made other than in accordance with the development plan. The appeal is therefore dismissed.

K Williams

INSPECTOR