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# Appeal Decision

Site visit made on 6 June 2024

**by L N Hughes BA (Hons) MSc MRTPI**

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

**Decision date: 24 June 2024**

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**Appeal Ref: APP/Z4718/W/24/3337387**

**Land adjacent 146 Commercial Road, Skelmanthorpe HD8 9DS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr T Sprott of Silverwood & GNS Property against the decision of Kirklees Metropolitan Council.
  - The application Ref is 2023/93310.
  - The development proposed is erection of one detached property.
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## Decision

1. The appeal is allowed and planning permission is granted for erection of one detached property at Land adjacent 146 Commercial Road, Skelmanthorpe, HD8 9DS in accordance with the terms of the application, Ref 2023/93310, and the plans submitted with it, subject to the conditions in the Schedule at the end of this decision.

## Applications for costs

2. An application for an award of costs was made by Mr T Sprott of Silverwood & GNS Property against Kirklees Metropolitan Council. This is the subject of a separate Decision.

## Preliminary Matters

3. The Council's statement clarifies that the application would have been refused if a decision had been made, and provides its reasoning.

## Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

## Reasons

5. The site is vacant land between No. 146 Commercial Road and No. 1 Poplar Rise. It includes a garage, boundary treatments, and a partially constructed driveway approved as part of a dwelling to the south<sup>1</sup>.
6. The proposal is for a detached dwelling fronting Commercial Road and accessed via New Lane, retaining the thick hedgerows to the north and west. It would be part two-storey with a front gable, and part hipped one-and-a-half storeys with a front dormer. It lies within a wider predominantly residential area

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<sup>1</sup> Council reference 2021/94016.

incorporating varying house styles. 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.

7. A previous application on the site for the erection of a detached dwelling was dismissed on appeal in July 2023<sup>2</sup>. The proposal before me is very similar but with a revised architectural design. The Council accepts the principle of one dwelling on the site, and raises no direct concern for any impact on living conditions for neighbouring occupiers, and I see no reason to find otherwise. Whether the adjacent new dwelling has yet been occupied is not a matter weighing against the proposal.
8. The dwelling would be less than 1.0m away from the eastern boundary. Space between dwellings in the area is a key characteristic, and the site originally formed a very open setting for No. 146. Thus the Council considers the dwelling would appear cramped in its plot, and would be contrary to the Kirklees Housebuilders Design Guide SPD (HDG) (2021) advised minimum separation distance of 2.0m to a shared boundary. However, I find the significant variety in the pattern of the space between buildings along the street, alongside the interspersed vegetation, to be such that the dwelling's proximity to the boundary would not appear untoward. This also aligns with the previous Inspector's finding whereby an even closer distance to the boundary on both sides was acceptable, including due to the rear garden of No. 2 Poplar Rise providing additional space.
9. The SPD Principle 13 requires proposals to consider the use of locally prevalent materials to reflect the character of the area. Although the proposed concrete tiles for the roof are not traditional, the materials overall would match those on the recently constructed dwellings to the south and east, including natural stone walls and architectural features. I therefore find this to be satisfactory.
10. The SPD Principle 14 expects window and door design to relate well to the street frontage and neighbouring properties, and reflect local character in style and materials. The windows would not replicate the traditional sash types of the street's historic properties. However, they do intrinsically relate well to the overall form, being balanced and not overly dominant. They also take design cues such as headers, cills, and mullion proportions from surrounding properties. As such, I find the fenestration would be appropriate in its context.
11. The dwelling would have a cross gable and hipped roof, including a dormer. It would result in a horizontal emphasis in contrast to the vertical emphasis of No. 146, in part resulting from its being wider and considerably lower. However, its overall height, plus the drop down in roof level massing towards Poplar Rise, would act as a transition between the existing dwellings. It would therefore sit comfortably in this context. I note that the overall height is the same as identified by the previous Inspector to reflect the changes in levels along Commercial Road and be in between the heights of those dwellings. The width and roof level massing would also be less than for that proposal.
12. Likewise as for the previous Inspector, I do not consider the roof design would appear at odds with the prevailing character of the area, given the variety of roof designs and dwelling orientations, including those with hipped roofs. The dormer projection, while relatively unusual in the streetscene, would respond

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<sup>2</sup> Council reference 2022/90340, appeal reference APP/Z4718/W/22/3307383.

to that on No. 146 as the closest dwelling frontage. This would therefore comply with the SPD principle 15 whereby the roof design should relate well to the site context.

13. The dwellings along Commercial Road and side streets can be categorised into different building groups, and the main parties disagree over some precise boundaries of these. However, on the basis of my findings above and as required by the HDG Principle 2, overall the proposed dwelling would assimilate within the context of its immediate surroundings, and complement the surrounding built form and wider streetscene.
14. I therefore find that the proposed development would not cause harm to the character and appearance of the area. It would comply with Policy LP24 of the Kirklees Local Plan Strategy and Policies (2019), which amongst other matters, requires proposals to promote good design by ensuring the form, scale, layout and details of all development respects and enhances the character of the townscape. It would also comply with the principles of the HDG as identified above, and with the National Planning Policy Framework ('the Framework') (2023) paragraph 135 for developments to be visually attractive and sympathetic to local character, including the surrounding built environment.

### **Conditions**

15. I have considered the Council's suggested conditions, and made minor amendments in accordance with paragraph 56 of the Framework and the Planning Practice Guidance. The appellant has agreed to their imposition. I have attached the statutory condition to limit the lifespan of the planning permission, and one to specify the approved plans to provide clarity for the terms of the permission.
16. The site is identified as being within an area of probable unrecorded shallow mine workings, with intrusive investigation recommended to examine this further. I have therefore required such details to be provided, and any recommended actions taken as necessary. I have also imposed a condition to require assessment and remediation measure should any contamination be found during the course of the development, in order that contamination is properly addressed.
17. Details and specification of external materials and boundaries are necessary to maintain the character and appearance of the streetscene. Obscured bathroom windows and restriction of new side windows are required to protect privacy. Access and parking areas are to be laid out with a permeable surface in the interests of sustainable water management, and must be retained free from obstruction other than parked vehicles to avoid any negative impacts on the highway. A bat and bird box are required to enhance biodiversity.
18. The Council's suggested condition relating to electric vehicle charging points is unnecessary as it is addressed by the Building Regulations.
19. I note the interested party objection regarding various forms of potential disturbance during construction. While I have sympathy for this issue, this would be relatively short-term and small-scale due to being only for one dwelling, and specific nuisance can be controlled through other legislation. I therefore find it unnecessary to require a construction management plan.

## **Conclusion**

20. For the reasons given above, and having regard to all other matters raised, I conclude the development accords with the development plan taken as a whole, and therefore the appeal is allowed.

*L N Hughes*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - 1393-P1-01 Proposed Site Plan
  - 1393-P1-03 Proposed Boundary Treatments
  - 1393-P1-05 Existing Site Plan / Site Location Plan
  - 1393-P1-06 Proposed Street Scene
  - 1393-P1-02-05A Plot 1 - Plans and Elevations
  - Side Elevation Viewed Alongside Boundary with 1 Poplar Rise
- 3) No development shall commence until an assessment of the risks posed by any contamination, land instability, and coal workings, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority. If any contamination, land instability, or coal workings are found, no development shall take place until:
  - i) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted, has been submitted to and approved in writing by the local planning authority;
  - ii) the site has been remediated in accordance with the approved measures and timescale; and
  - iii) a verification report has been submitted to and approved in writing by the local planning authority.
- 4) If during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its assessment and remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to and approved in writing by the local planning authority before development resumes.
- 5) No development above ground level shall take place until details of the natural stone for the elevations and the concrete tiles for the roof have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained thereafter.
- 6) All new heads, sills, mullions, and window and door surrounds shall be constructed of natural stone, and the front elevation of the north facing dormer shall be faced in natural stone, all of which shall be retained thereafter.
- 7) The development hereby permitted shall not be occupied until the boundaries within and surrounding the site have been constructed or retained in

accordance with details shown on the approved plans, and shall be retained thereafter.

- 8) The development hereby permitted shall not be occupied until the bathroom and ensuite windows in the first floor have been fitted with obscured glazing to a minimum of Grade 4. Once installed the obscured glazing shall be retained thereafter.
- 9) The development hereby permitted shall not be occupied until the access, parking, manoeuvring, and turning areas shown on the approved plans shall be laid out with a hardened and drained surface in accordance with the Department for Communities and Local Government 'Guidance on the permeable surfacing of front gardens' (13th May 2009) (or any modified or successor guidance). These areas shall be provided and retained thereafter free of obstruction in order to allow for the parking of resident and visitor vehicles.
- 10) The development hereby permitted shall not be occupied until a bat box and a bird box (one of each) of long-lasting Schwegler 'woodcrete' type or similar, have been incorporated into the dwelling. The boxes shall be located away from sources of light and be sited at least 4 metres above ground level, and retained thereafter.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows or doors other than those expressly authorised by this permission shall be constructed in the side elevations.

## **END OF SCHEDULE**