



Appeal Decision

Site visit made on 14 November 2024

by D M Young JP BSc (Hons) MA MRTPI MIHE

an Inspector appointed by the Secretary of State

Decision date: 17 December 2024

Appeal Ref: APP/Z4718/W/24/3348803

Land adj. to 3 Boulder Gate, Marsden, Huddersfield, HD7 6LJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Quine Developments Ltd against the decision of Kirklees Metropolitan Council.
 - The application Ref is 2024/62/90652/W.
 - The development proposed is the erection of one detached dwelling and detached garage with associated landscaping.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Quine Developments Ltd against Kirklees Metropolitan Council. This application is the subject of a separate decision.

Main Issues

3. The main issues are the effect of the proposed development on, firstly, the character and appearance of the area, and, secondly, the living conditions of future occupiers.

Reasons

Character and appearance

4. The appeal site is an irregularly shaped and steeply sloping plot of land adjacent to 3 Boulder Gate¹. Although it appears as garden land associated with No. 3, I understand it is in separate ownership. Whether that has always been the case, the evidence is unclear. Although the site is seen in the context of Meltham Road, it is accessed via Gate Head and Boulder Gate. The site is bounded to Meltham Road by a traditional stone wall which is characteristic of this part of the streetscene.
5. The surrounding area is residential in nature comprising mainly two storey dwellings of mixed age and design. In my view the appeal site contributes positively to the character of the area by providing a sense of openness at the Gate Head/Meltham Road junction. A corollary of this is that from Meltham Road the site affords stunning views across the Colne valley.

¹ I understand the site is in separate ownership to No. 3.

6. According to the Council, the split-level dwelling would be approximately 7.75m in height to its front (west) elevation and 4m to the rear (east) elevation fronting the Gate Head/Meltham Road junction. The dwelling would be recessed into a plot that can only be described as constrained. At its closest point, the dwelling would be 2.2m from the footway along Meltham Road.
7. The appeal site forms part of a wider residential estate that was granted planning permission in the late 1980s². While the remainder of the estate has been built out, the dwelling intended for the appeal site was never completed despite being constructed up to slab level. As detailed in the Officer's Report, subsequent attempts to obtain a certificate of lawfulness for that dwelling were unsuccessful. While the above history is clearly a material consideration, I share the Council's view that absent a lawful fallback position, the scheme must be assessed under the policy framework that exists today and not that in the late 1980s.
8. While there is no objection from the Council to the principle of development, it is contended that the resultant layout would be cramped contrary to the established character of the area. In coming to that view, guidance in the Housebuilders Design Guide SPD is cited. Among other things this states:

"Buildings should be aligned and set-back to form a coherent building line and designed to front on to the street, including corner plots, to help create active frontages. The layout of the development should enable important views to be maintained to provide a sense of places and visual connections to surrounding areas and seek to enable interesting townscape and landscape features to be viewed at the end of streets, working with site topography."
9. While I find nothing particularly objectionable to the detailing of the proposed dwelling, I share the Council's concerns that the Appellant is simply expecting too much from a site with considerable constraints. The dwelling would undoubtedly appear as cramped and contrived due to its awkward orientation relative to Nos. 3 and 7 as well as the Meltham Road/Gate Head junction. Moreover, the lack of breathing space around the dwelling would also be at odds with the established character of the Boulder Gate estate. The important views referred to in the SPD would be diluted and the dwelling would be an unwelcome and prominent addition to the Meltham Road streetscene.
10. For the above reasons, I conclude the proposed development would have an unacceptable effect on the character and appearance of the area contrary to LP24 and LP35 of the Kirklees Local Plan 2019 (the LP) and guidance in the Housebuilders Design Guide SPD insofar as they seek good quality and visually attractive design that protects and enhances the character of local areas. Although there has been some debate regarding Policy LP2, I consider there would be conflict with this policy at a high level given it seeks to protect and enhance the character of 'these' places which in the context of this policy means rural Kirklees which expressly refers to "*Steep valley sides in the Colne Valley*" being a challenge to growth in this area.

Living conditions

11. The Council argue that the standard of private outdoor amenity space for future occupiers of the proposed dwellings would be unacceptable. Paragraph

² LPA ref: 87/04588

135f) of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users. At a local level, the SPD states that *"All new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the character and context of the site. The provision of outdoor space should be considered in the context of the site layout and seek to maximise direct sunlight received in outdoor spaces."*

12. The proposed site layout plan shows a narrow and steeply sloping garden wrapping around the proposed dwelling. The quantum and useability of the garden would be substandard given the site's topography and its proximity to the Meltham Road/Gate Head footway which would provide highway users with direct views into the garden at close quarters. The provision of planting or alternative boundary treatments around this frontage of the site is likely to further reduce the amount of useable garden space as well as creating an unacceptable level of overshadowing particularly in the winter months.
13. For these reasons, I conclude that the proposed development would result in unacceptable living conditions for future occupiers of the development contrary to LP Policy LP24b) and the SPD.

Other Matters

14. I acknowledge the development would make a contribution, albeit limited, towards the Council's housing stock and this weighs in favour of the scheme particularly given the Council is unable to demonstrate a 5-year supply of deliverable housing sites. I also acknowledge that the Council has judged the proposal to be acceptable in terms of highway safety, parking/refuse provision, drainage, heritage impacts, biodiversity, contaminated land and climate change. However, an absence of harm in these areas are all neutral considerations in the planning balance.
15. I acknowledge that a split-level design is appropriate for the site's topography and also that the structures associated with the previously approved dwelling have an impact, albeit limited, on the visual amenity of the area. There would also be some modest economic gains to the local economy through construction related activity. However, in terms of its more detailed effects, the proposal would clearly conflict with the LP in terms of harm to the character and appearance of the area and the living conditions of future occupiers.

Conclusion

16. For the reasons given above the appeal should be dismissed.

D M Young

INSPECTOR