



Appeal Decision

Site visit made on 6 February 2025

by Phillip J G Ware BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2025

Appeal Ref: APP/Z4718/W/24/3356304

88 Shirley Road, Little Gomersal, West Yorkshire, BD19 4ND

- 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 Mark Hellewell against the decision of Kirklees Council.
 - The application Ref is 2024/62/91451/E.
 - The development proposed is residential development of 1no. new single-story dwelling and the erection of front dormers and roof alterations to form first floor accommodation, installation of solar panels, and Internal alterations to original dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. From everything which has been submitted and from what I saw on my site visit, there is no issue related to the various alterations to the original dwelling.
3. On that basis there are two issues in this case:
 - The effect of the proposed single storey dwelling on the streetscene
 - The effect of the removal of the protected tree on the character and appearance of the area.

Reasons

The effect on the streetscene

4. Shirley Road runs north – south through an area known as Gomersal Hill Top. The appeal site is on the west side of the road, in a section where the carriageway width is limited. The site of the proposed dwelling is the side garden of a bungalow, beyond which is a Scout Hut.
5. The area is generally residential in character, and includes a number of areas of public open space. There is no dominant type of housing, with a range of single and two storey buildings of various ages and designs. However, one particularly notable feature is the generally spacious character of the area. This is particularly evident at road junctions and as a result of the areas of public open space. There is no sense of buildings being inserted into gaps in the original built form in the area.

6. The contested element of the proposal is the construction of a small single storey dwelling in the side garden of the host property. In plan form it would broadly mirror the T shape of the existing building, and the eaves height would be very similar.
7. The proposal would take up a large amount of the existing garden area and would appear as a cramped development shoehorned onto the site. For this reason it would significantly diminish the generally wide spacing of properties along this part of Shirley Road, and harm the character of the streetscene. In coming to that view I am particularly conscious of the open space around the scout hut, and the fact that the proposal would visually encroach onto the open area.
8. The appellant has referenced a building line, including the scout hut itself, and the way in which the proposal would compare with the line. However, having visited the site I do not consider that there is a readily apparent building line in this part of the road. Even if there were the key issue is the spacing of properties rather than any notional building line.
9. The development plan policy approach is set out in Kirklees Local Plan Strategy and Policies (2019) (LP), supplemented by the Kirklees Housebuilders Design Guide SPD (2021) (SPD).
10. LP policy LP24(a) deals with design and states that the form, scale, layout and details of all development should respect and enhance the character of the townscape. The SPD (at principles 2 and 5) also seek to ensure that development should respect and enhance the local character of the area by, amongst other matters, taking cues from the character of the existing built environment. The National Planning Policy Framework (the Framework) provides that development should be sympathetic to local character.
11. For the reasons set out above the proposed single storey building would conflict with these policies and harm the streetscene.

The removal of the protected tree

12. I obtained a clear view of the protected tree on my site visit. It is a mature sycamore close to the road, and I have no doubt that, especially when in leaf, it makes a substantial contribution to the area. Indeed the appellant refers to it being visually appealing.
13. If the tree remains in place the development could not go ahead. I am inclined to agree with the Council that the reason for the proposed felling is to enable the development to go ahead. The appellant has stated that it is causing damage to the existing house but, aside from one photograph at an uncertain point, this has not been supported by evidence.
14. I appreciate that the appellant has stated that the tree would be replaced by a smaller less invasive species. However this would be a very limited compensation for the loss of the existing tree.
15. With any application to fell a protected tree a balancing exercise needs to be undertaken. The need for the works applied for must be weighed against the resultant loss to the amenity of the area. In this case there is insufficient evidence to justify the removal of the protected tree and the removal would harm the character and appearance of the area. The proposal would therefore conflict with

LP policy 24 and, in particular, policy 33. It would also conflict with the Framework,, which notes the important contribution which trees can make to the character and quality of urban environments.

Other matters

16. The appellant has emphasised the personal need for the dwelling. However such circumstances will seldom outweigh more general planning considerations, and it is likely that the building would remain long after the current personal circumstances cease to be material.
17. There is considerable emphasis in the appellant's statement on the intention that this would be a self-build project. I appreciate that under the Self Build and Custom Housebuilding Act 2015, local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. Authorities are also subject to duties to have regard to this and to give enough suitable development permissions to meet identified demand. However no substantial evidence has been presented on this matter to weigh in support of the proposal.
18. The appellant has referenced his history with the Council. However this does not affect my consideration of the land use planning merits of the proposal.
19. The Council has stated that it cannot provide a five-year supply of deliverable housing sites and that it cannot meet the requirements of the Housing Delivery Test. Under these circumstances the so-called 'tilted balance' in national policy applies. However the adverse impacts of allowing the appeal would significantly and demonstrably outweigh the benefits, when assessed against the benefits in national policy as a whole – especially in relation to securing well designed places.

Conclusion

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

Phillip J G Ware

INSPECTOR