



Appeal Decision

Site visit made on 1 April 2025

by **C McDonagh BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11th April 2025

Appeal Ref: APP/X4725/W/24/3354230

33 High Street, South Hiendley, Barnsley S72 9AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Muassar Lone against the decision of Wakefield Metropolitan District Council.
- The application Ref is 21/01979/S7301.
- The application sought planning permission for proposed demolition of existing workshop and erection of a pair of 2 bedroom bungalows without complying with a condition attached to planning permission Ref 21/01979/FUL, dated 12 May 2022.
- The condition in dispute No.2 which states that: The development hereby approved shall be carried out strictly in accordance with the following approved plans as listed below and at the end of this decision notice unless required otherwise by this decision or its attached conditions: Proposed floor plans, proposed elevations and proposed site plan (drawing number HED/658/20) – received 5.10.2021.
- The reason given for the condition is: For the avoidance of doubt as to what is authorised by this permission and in accordance with the National Planning Practice Guidance (Use of Planning Conditions, paragraph 022).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 12 December 2024, the Government released an updated version of the National Planning Policy Framework (the Framework). As the changes do not affect the consideration of the main issue of this appeal, I have not sought comments on the revisions.

Background and Main Issues

3. Planning permission was granted¹ for the demolition of a workshop and the erection of two two-bedroom semi-detached bungalows with pitched roofs on a parcel of land to the rear of No's 1-15 Northgate. The layout of the proposed dwellings was arranged with the roof eaves being closest to the rear boundaries of No's 1-15 while the pitch would rise away. Evidently, the eaves were approved at a height of 2.5m while the overall highest point of the roof pitch was 5.3m.
4. It was clear on my site visit that a significant proportion of the building was constructed contrary to the approved plans. I have therefore considered the appeal on a part retrospective basis. The building has been constructed essentially with a

¹ Application reference: 21/01979/FUL

90-degree rotation, which has resulted in a gable wall rather than the ascending pitch facing the rear elevations of No's 1-15 Northgate.

5. Therefore, the main issues are the effects of varying the disputed condition on the living conditions of occupiers of adjacent dwellings and on the character and appearance of the area.

Reasons

Living Conditions

6. My attention is drawn to the Residential Design Guide Supplementary Planning Document (the SPD) (adopted 31 January 2018), which advises that main to side aspect distances should be maintained at 12m. However, this is specified as applying to two-storey dwellings, and I note the Council advises this can be varied according to site specific circumstances.
7. On the site visit, I observed the development from the rear garden, ground floor rear window and first-floor rear window of No.11 Northgate. From both the garden and ground floor rear window, the gable wall of the partially complete development presented as an oppressive, overbearing and harmful intrusion in the outlook from these vantage points. While the approved application may have included new built form in these same views, due to the pitch of the roof rising away, this would have alleviated some of the impact by taking the highest point away from the adjacent dwellings and their garden spaces.
8. I have had due regard to the findings of the 3D modelling document² which demonstrates views from the first-floor rear windows of No's 7-15 Northgate of the 'existing building', although this has been removed from the site. This also shows the approved building and that subject to this appeal. From what I observed from No.11, the depiction in the model is somewhat accurate, although I disagree that it would not be harmful. A significant proportion of the outlook from the first-floor bedroom window was obscured due to the height of the wall.
9. Moreover, the window was not translucent as suggested in the report, it was a standard window with clear outward visibility. Although the rationale for not including ground floor views in the model is explained, the presence of the fence between the two properties did not preclude the harm caused by the gable wall, which presents as a sheer structure in close proximity rising to a significant height for occupiers of this property, harmfully impacting outlook.
10. Due to the form of the roof as constructed, the gable would slope to either side in views for occupiers of No's 9 and 13 compared to the approved design. However, it would still be a stark feature in views from the garden and ground floor rear windows of No's 9 and 13 when compared to the approved design. I therefore disagree with the conclusion of the modelling in this regard.
11. I note there is dispute between the main parties as to whether there would be a height increase between the approved design and what has been part constructed and further proposed. I further note that the gable would be slightly further from the rear elevations of the properties on Northgate by approximately 0.4m. Be that as it may, the change in orientation of the structure and subsequent presentation of a

² 'HAS/23/230/Document B Computer 3D Model Generated Study Views from existing properties on Northgate for Section 73 amendment Appeal' – dated 18/10/24

gable wall rather than a pitched roof has materially harmed the living conditions of No's 9, 11 and 13 Northgate by introducing an oppressive and overbearing structure, harmfully impacting upon the outlook of occupiers of these properties as a result.

12. The appellant advises that the originally approved application drawings did not specify the direction of the roof pitch. However, the drawing³ they submitted with the appeal clearly shows each elevation labelled as A, B, C and D along with a ground floor plan showing each aspect of the design for context.
13. I have also had regard to the sun path analysis⁴ which demonstrates little difference between the approved and part retrospective designs with regards to overshadowing, aside from some instances throughout the winter months. Although the Council advises in its appeal statement that it did not refuse the application based on overshadowing, reference is made to concerns regarding this matter in the officer report. Based on the evidence before me, I see reason to consider overshadowing is of particular concern in this instance.
14. However, the officer report does include concerns relating to a loss of daylight upon the adjacent properties. While the total height of the roof pitch is unclear as to whether it would constitute an increase overall, the highest point of the gable would be positioned closer to the gardens and rear elevations of No's 9, 11 and 13 Northgate when compared to the approved building, in which the roof pitches away from those properties. In the absence of evidence to the contrary, I share the concern of the Council and conclude that the properties referenced above would suffer a loss of daylight as a result of the change in layout of the building.
15. I appreciate that the layout as built may provide a more suitable arrangement of internal spaces for the appellant. This would include loft space and/or meeting other regulatory requirements. However, this has come to the detriment of occupiers of other properties and would not provide justification for allowing said harm.
16. To conclude on this main issue, the variation of the condition would cause harm to the living conditions of occupiers of adjacent properties, particularly No's 9, 11 and 13 Northgate. This would be caused by the introduction of an oppressive and overbearing structure which has already harmfully impacted outlook for occupiers of those properties and a loss of daylight due to the position of the gable wall, including its highest point being brought closer to said properties. This would be contrary to policy LP56 of the LP⁵, which states that proposals shall have no significant detrimental impact on the amenity of neighbouring users or residents and existing or prospective users, among other things. The proposal would also be contrary to paragraph 135 of the Framework which seeks to ensure development provides a high standard of amenity for existing and future users, and the guidance in the SPD.

Character and Appearance

17. The development site is located behind the aforementioned properties on Northgate, accessed by a small track leading from that road. There are also

³ Drawing No. HED/658/20

⁴ 'HAS/23/230/Document A Computer 3D Model Generated Study Sun Path Analysis Study for Section 73 amendment Appeal' – dated 18/10/24

⁵ Wakefield District Local Plan 2036 Volume 1 – Development Strategy, Strategic and Local Policies (adopted 24 January 2024).

properties fronting High Street to the south and along Southgate to the north. The area includes semi-detached and terraced houses of varying designs and scales, including bungalows, two and three-storey buildings. Properties generally front the various roads in the area while the prevailing materials are red brick and slate.

18. As such, there is little in the way of architectural cohesion or unifying characteristics of the area. The increase in mass and scale of the property is minimal, while the change in roof orientation now conflicts with the roofs on Northgate but adheres to those fronting High Street. Given the backland location of the appeal site, this would not be perceptible to most passers-by and largely would only be viewed from the rear of surrounding properties.
19. Notwithstanding my findings in relation to the first main issue, the changes either proposed or partially constructed are not, or would not be, harmful to the character and appearance of the area. This would adhere to policy LP56 of the LP, which states that development shall respect, and where appropriate enhance the character, function and overall quality of the locality in terms of design, scale, massing, height, density, layout, materials and colour over the lifetime of the development. The proposal would also adhere to the guidance in paragraph 135 of the Framework, which advises development should be sympathetic to local character.

Conclusion

20. If the disputed condition was varied the resultant development would harm the living conditions of occupiers of adjacent dwellings, contrary to the development plan as a whole and aims of the Framework. While I have found that the character and appearance of the area would not be harmed, the material considerations outlined above would not be sufficient to outweigh the conflict. The appeal is therefore dismissed.

C McDonagh

INSPECTOR