



Appeal Decision

Site visit made on 22 April 2025

by **C Walker BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 May 2025

Appeal Ref: APP/Z4718/W/25/3359558

44 Dewsbury Gate Road, Dewsbury WF13 4DD

- 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 Abid Shiraz against the decision of Kirklees Metropolitan Council.
 - The application Ref is 2024/62/92026/E.
 - The development proposed is described as New detached dwelling.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Abid Shiraz against Kirklees Metropolitan Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the development on the:
 - character and appearance of the area; and
 - living conditions of neighbouring occupiers, with particular regard to daylight, sunlight and outlook.

Reasons

Character and appearance

4. The site comprises a low-lying single storey dwelling, at 44 Dewsbury Gate Road, together with its garden that extends southwards. Located on a corner plot at the junction of Dewsbury Gate Road and Lemans Drive, No. 44 faces a group of single storey dwellings opposite, and a community park, which sit either side of the junction of Occupation Lane. Immediately to the south, is a row of stone terraced houses comprising 14 - 20 Dewsbury Gate Road, with their rear elevations facing towards the site. To the north is Lemans Drive, which extends eastwards with land levels falling gradually away, including across the site.
5. No.44's site boundary to Dewsbury Gate Road and Lemans Drive is formed by a low stone wall adjoining the footpath. This wall wraps around the corner plot and has timber fencing set behind it to the northern section. The area is predominantly residential in character with dwellings in the immediate vicinity typically comprising flat fronted two storey terraces, or two storey semi-detached dwellings and a more limited number of single storey dwellings, including No. 44 itself.

6. The proposal is for a sizable detached dwelling over three floors, utilising space within the roof to create additional accommodation. The roofline would be similar to the two storey terraces to the south. Given it would sit in such close proximity to No.44, the relationship with this dwelling is visually important. Indeed, Principle 15 of the Housebuilders Design Guide Supplementary Planning Document 2021 (SPD) guides that the roof form of a building should respect that of neighbouring buildings.
7. The low-lying roof form of No. 44 is atypical for the area but nevertheless forms part of the established street scene. Due to the height, scale and positioning of the appeal dwelling almost immediately adjacent to No.44, the proposed development would appear dominant, jarring significantly with the adjacent bungalow in what is a prominent position, particularly on the approach from Occupation Lane. This awkward relationship would have a significant detrimental effect on the character and appearance of the area and the street scene.
8. Furthermore, the proposed development fails to take adequate design cues from the local context. This includes the single storey front projection, which starkly contrasts with the flat fronted elevations in the locality. It also includes the front apex window and the full height frontage glazing which are not typical features in the area. These features would appear incongruous in the street scene, exacerbated by the height of the building and its dominance in the locality.
9. Support for my findings can be found in Principles 2 and 14 of the SPD. These set out that window designs should have regard to the local character and that they are an important part in generating a sense of identity. These principles also guide that development will be expected to respect and enhance the local character of the area by taking cues from the character of the built environment within the locality and by creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.
10. My attention is drawn to two examples¹ of what the appellant asserts are similar developments in the area which support their case. However, in both cases, the two-and-a-half storey dwellings are set back from the roadside either behind mature trees or planting, offering a more discreet relationship with the public realm and both are directly adjacent to dwellings of a similar scale on at least one side. This is in contrast to the appeal before me, which is more prominent. Therefore, they are not directly comparable. It follows that this does not lead me to alter my findings on character and appearance.
11. Previous outline planning permissions at the appeal site, for 3 and 4 dwellings, have also been drawn to my attention. However limited details have been provided, including when these permissions were granted or whether they remain extant. In any event I am required to determine the appeal on its own merits.
12. In conclusion, I find that the effect of the development on the character and appearance of the area is harmful, in conflict with Policy LP24 of the Kirklees Local Plan Strategy and Policies (2019) (Local Plan). This sets out, amongst other things, the requirement for good design ensuring the form, scale, layout and details of all development respect and enhance the character of the area, which this scheme fails to achieve.

¹ 126 Boothroyd Lane, WF13 2LW and 97 Oxford Road, WF13 4EH

Living conditions

13. The Council have not explicitly stated which existing accommodation forms the subject of their second reason for refusal. The officer report, upon which they rely, suggests a failure by the appellant to demonstrate an adequate relationship between the appeal site and the terraced properties at Nos.14-20 and perceived harm to No. 44. I have determined the appeal on that basis in the absence of any other representations suggesting otherwise.
14. The appellant asserts that the effect on the existing dwelling at No. 44 is not relevant as it falls within the site and is occupied by a family member. However, a basic tenet of the planning regime is to ensure that development is in the public interest, regardless of ownership.
15. No. 44 would sit side by side with the appeal dwelling, at a distance below the 2m guide contained within Principle 6 of the SPD. The side elevation of the bungalow contains a door and a large south facing window opening. However, this is a secondary window to the room it serves. Although the appeal dwelling would block out light to this window and diminish the outlook for occupants, there is an alternative large window to the frontage that would allow sufficient light into the room and provide an adequate outlook. Despite the tension with the SPD, I give more weight to the site-specific circumstances.
16. The alignment of the appeal dwelling would sit slightly forward of the No. 44 and project beyond its rear elevation. This would cause some loss of light to the eastern side of the front and rear of No. 44. However, the effects are limited due to the orientation of No. 44 and the fact that its garden to the east is shallow and not especially functional. Likewise, loss of light to the frontage of No. 44 would be minimal given the projection would be single storey. Moreover, the remaining useable garden area for No. 44 would be to the north which would be unaffected.
17. The Council indicate that there would be no loss of privacy to the terraces at Nos. 14-20, due to the distance between dwellings and the use of obscure glazing to the second-floor side window of the proposed dwelling. I see no reason to disagree. The Council's concerns appear to relate to potential overbearing impacts which they assert have not been demonstrated as absent through an extended site section/street scene drawing. However, I am satisfied that 'Street scene elevation 1' drawing, in combination with the other plans, adequately shows that there would be no significant adverse effects to the terraced dwellings at Nos. 14- 20 in terms of outlook, daylight or sunlight.
18. Therefore, I conclude that the effect of the living conditions on neighbouring occupiers with particular regard to outlook, daylight and sunlight are acceptable. I do not find conflict with Policy LP24 of the Local Plan which expects development to provide a high standard of amenity for future and neighbouring occupiers.

Planning Balance

19. The Council confirm they are unable to demonstrate a five-year supply of deliverable housing sites (5YHLS) in accordance with the National Planning Policy Framework (the Framework). The current level of shortfall is unknown, albeit in 2023 the position was 3.96 years supply of housing land and the 2022 housing delivery test fell below the 75% requirement.

20. An inability to demonstrate a 5YHLS warrants the application of paragraph 11(d) of the Framework which relates to the presumption in favour of sustainable development. In this case it means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
21. I have found that the development would have a significant adverse impact on the character and appearance of the area. Paragraph 11(d) requires me to have particular regard to securing well-designed places, which I have concluded this scheme does not achieve.
22. The effect on the living conditions of neighbouring occupiers is considered acceptable, albeit this is a neutral factor that neither ways for, nor against the scheme.
23. The scheme would provide housing for a large family within a sustainable location where occupants would be able to access local services and facilities. This does weigh in favour of the scheme. However, weighed against the benefits of a scheme for just one dwelling, I find the adverse effects to significantly and demonstrably outweigh these, when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

24. For the reasons given above, the appeal is dismissed.

C Walker

INSPECTOR