The Planning Inspectorate

Appeal Decision

Site visit made on 17 May 2024

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th June 2024

Appeal Ref: APP/Z4718/W/23/3334791
Land off Olney Street, Slaithwaite, Huddersfield, West Yorkshire HD7 5EG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by Paul Justin Bastow against the decision of Kirklees Metropolitan Council.
- The application Ref is 2023/60/91796/W.
- The development proposed is demolition of garages and erection of 1 bedroom dwelling.

Decision

1. The appeal is allowed and outline planning permission is granted for demolition of garages and erection of 1 bedroom dwelling at Land off Olney Street, Slaithwaite, Huddersfield, West Yorkshire HD7 5EG in accordance with the terms of the application, Ref 2023/60/91796/W, subject to the conditions set out in the Schedule at the end of this decision.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.

3. The application was considered as being in outline with all matters reserved for future consideration. I have dealt with the appeal on that basis, treating the proposed site plan and elevations as being indicative.

4. An outline planning application for a detached 2 bedroom dwelling on the site has previously been refused planning permission and dismissed at appeal[1]. I have been provided with plans and details of that appeal by the Council and have had regard to them in reaching my decision.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

6. The appeal site is located at the end of the no-through road of Olney Street. The streetscape is predominantly of a residential character, and includes dwellings of various designs and layouts.

[1] Appeal Ref: APP/Z4718/W/23/3304593

7. The site is part of a small number of garages extending along the highway. The garages are mostly typical of single car garages, although there is a relatively large building located between the appeal site and nearby bungalows. I saw that the appeal site contains 2 garages, although the evidence suggests that a garage or container was located on a third plot. The garages on the site are in a state of disrepair and the appellant refers to problems of fly-tipping.

8. The submitted site plans and elevations indicate that a 2-storey dwelling with gardens to the front and rear as well as off-street parking to the side could be provided on the site. The design and layout are representative of potential development within the constraints of the site, and I have had regard to them accordingly.

9. The residential plots on the opposite side of Olney Street are of a generous size and include a number of detached dwellings. However, the wider streetscape does not have a defined pattern or grain of development, and includes dwellings of varying designs and layouts including cottages, terraces of houses and bungalows, and detached dwellings.

10. The indicated layout would reflect the projection of nearby bungalows towards the highway, albeit that the bungalows are arranged around a landscaped area. Although the indicative layout shows the proposed dwelling as being located very close to a side boundary of the site, a terrace opposite also projects close to the side boundary of a nearby plot, and a number of other buildings within the wider streetscape are also set close to site boundaries. The Council's Design Guide[2] refers to a 2m distance from the side wall of a new dwelling to a shared boundary, but this only relates to a new dwelling located in a regular street pattern which is not the case with the appeal proposal.

11. The proposal would be viewed against the open aspect of allotments to the rear and the landscape beyond, although the Council accepts that the proposal would not result in the loss of important views. I have also had regard to the sloping topography beyond the appeal site. Although the extant single garages on the site and nearby are of a small scale, there is also a relatively large utilitarian building between the appeal site and the bungalows. The proposal would be viewed as a logical continuation of this varied streetscape. Within that setting, and having regard to the indicative scheme, a dwelling on the appeal site would not appear unduly large, cramped or incongruous.

12. Based on what I have seen and read, with due regard to the indicative plans, I consider that the appeal proposal would not harm the character and appearance of the area. Indeed, the removal of the garages and the introduction of a productive use onto the land would enhance the area. The proposal would therefore not be contrary to the design requirements of Policy LP24 of the Kirklees Local Plan 2019. The proposal would also not be contrary to the Framework in respect of achieving well-designed and beautiful places. The proposal would also not conflict with the advice of the Council's Design Guide which seeks to respect and enhance the local character of the area.

Other Matters

13. I have had regard to the comments raised locally in respect of the proposal. The development would enable a degree of overlooking of nearby properties,

[2] Housebuilders Design Guide Supplementary Planning Document, 2021

but due to the separation distances this overlooking would not be intrusive. A dwelling on the site would also be visible from nearby residential properties, but it would not be unduly obtrusive or overdominant in those views, and for the reasons given in respect to character and appearance the effect on outlook would be acceptable.

14. Reference is also made to parking congestion in the area, however the indicative plans show that 2 parking spaces can be provided on-site with further room available should longer spaces be required. On-street parking would be prevented in front of the access to the site, but this would also apply to the extant situation to enable for access to the garages. Given the provision of off-street parking it has not been demonstrated that the proposal would limit manoeuvring and turning space on the highway. There is a demarcated footway along the road to the front of the site, and there is also sufficient space within and around the site to allow for the storage and collection of bins.

15. There is no evidence that a dwelling on the site would provide unacceptable living conditions or space standards for residents, even given the indicative nature of the submitted details.

16. Issues of land ownership are private matters between the parties and do not fall within the remit of this planning appeal.

17. Outline planning permission for a dwelling on the site has previously been dismissed at appeal. However, the indicative details of the current appeal differ from those considered by the previous Inspector including in respect of the potential layout of the site. The previous Inspector considered that the plot is considerably smaller than those nearby. However, while that may be the case in respect of plots on the opposite side of Olney Street, the size of the appeal site reflects that of other dwellings within the streetscape, including nearby bungalows and terraced dwellings. Although the design of a dwelling on the site may be a detached 2-storey building, I have concluded that this would not appear to be unduly incongruous or cramped within the varied context of the wider streetscape. Therefore, although I have had regard to the previous Appeal Decision, the considerations of the previous Inspector do not lead me to a different conclusion based on the evidence before me and my own observations.

Conditions

18. The Council has suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance. As a result, I have amended some of the conditions for clarity, accuracy and conciseness.

19. I have attached conditions relating to the submission of reserved matters and the associated time limits. Conditions in respect of contamination are appropriate due to the history of the site and in the interests of public and environmental safety.

20. Conditions in respect of measures to enhance the biodiversity of the site and to combat climate change are required in the interests of biodiversity and the mitigation of climate change.

21. A condition in respect of boundary treatments is not required as this is addressed as part of the reserved matters.

22. I have not included a condition requiring details of electric vehicle charge points. This matter is addressed by the Building Regulations, and the Planning Practice Guidance sets out that conditions requiring compliance with other regulatory requirements, such as Building Regulations, will not meet the test of necessity and may not be relevant to planning.

Conclusion

23. For the reasons given above the appeal should be allowed.

David Cross

INSPECTOR

Schedule of Conditions

1) Details of the access, appearance, landscaping, layout, and scale, ("the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.

4) Development shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) has been submitted to and approved in writing by the Local Planning Authority.

5) Where further intrusive investigation is recommended in the Preliminary Risk Assessment as approved, development (other than works required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority.

6) Where site remediation is recommended in the Phase II Intrusive Site Investigation Report as approved, further groundworks shall not commence until a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

7) Remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local

Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

8) Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority.

9) Before work above foundation level commences on the new dwelling, details shall be submitted to and approved in writing by the Local Planning Authority of measures to assist in combatting climate change that shall be incorporated into the development. This may include, but not be limited to, on-site micro-generation and measures to improve the energy performance of the new dwelling beyond the minimum requirements in the Building Regulations. The approved measures shall be installed before the dwelling is first occupied, and thereafter retained.

10) Before the new dwelling is first occupied, details shall be submitted to and approved in writing by the Local Planning Authority of measures to enhance the biodiversity of the site, which may include, but not be restricted to, the installation of habitat boxes and the planting of appropriate native species as part of a landscaping scheme. The enhancement measures thereby approved shall be implemented before first occupation or in the first sowing or planting season following the substantial completion of development. They shall be retained thereafter, or in the case of planting retained for a minimum of five years from first implementation, with any specimens that die or become diseased within this period replaced with others of the same species.

End of Schedule