



Appeal Decision

Site visit made on 4 February 2019

by S R G Baird BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th February 2019

Appeal Ref: APP/G4240/W/18/3208560

Land behind 7A to 31 Kinder Street, Stalybridge, Cheshire SK15 1AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr C Jewitt against the decision of Tameside Metropolitan Borough Council.
 - The application Ref 17/00951/FUL, dated 6 November 2017, was refused by notice dated 6 April 2018.
 - The development proposed is the construction of one bungalow – resubmission of 17/00236/FUL.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are: the effect on the appearance of the area and the implications for neighbours' living conditions with reference to overlooking.

Reasons

Character and Appearance

3. Development Plan¹ Policy OL4 seeks to protect areas of green space, whether publicly or privately owned, that perform a local amenity function. Policy OL4 does provide for exceptions, which do not apply if the land provides a valued sense of openness in the street scene. Policies 1.3, C1 and H10 seek to protect the character, appearance and amenity of an area. The objective of these policies is broadly in accord with the National Planning Policy Framework (Framework).
4. Formerly occupied by a row of terraced houses, the site was landscaped and maintained by the Council until it was sold to the appellant. The fact that the site is now in a poor condition is not, on its own, a reason to allow development. To do so would encourage owners seeking a beneficial permission not to maintain their land. Kinder Street, which has a narrow carriageway, and the site sit higher than Wakefield Street to the south and there are extensive open views across the site to woodland on the south side of the valley. In this context, the site, despite the removal of several trees and a lack of maintenance, provides a degree of openness that contributes significantly to the character and quality of the area.

¹ The Tameside Unitary Development Plan November 2004 (UDP).

5. Whilst the appellant could fence the site to prevent public access, the value and role of this site is not as an informal recreational area. Rather, its value is in its openness and the contribution this makes to the character and appearance of the area. Moreover, the height of fencing that could be erected without planning permission would be restricted and would not materially reduce the openness/spaciousness of the area.
6. The wider area has dwellings of varying ages, types and styles and a bungalow would not, in itself, be harmful. However, the depth of the site is shallow, and the proposed dwelling would sit close to the front and rear boundaries of the site. Here, given the narrowness of Kinder Street, the development with its extensive roofscape would appear cramped, dominating the plot and the street. As such the development would be an unacceptable and incongruous feature in the street scene. On this issue, I conclude that the development would unacceptably affect the character and appearance of the area and conflict with the objectives of UDP Policies OL4, 1.3, C1 and H10.

Living Conditions

7. UDP Policy H10 and Policy RD5 of the Tameside Residential Design Guide, March 2010 seek to ensure that development does not have an unacceptable effect on neighbours through a loss of privacy. Policy RD5 sets out recommended interface distances albeit this guidance is to be applied flexibly having regard to the location and nature of the site. Neither the planning officer's report nor the submissions by the appellant indicate the degree of separation that would be achieved between the dwellings on the north side of Kinder Street and the front elevation of the proposed bungalow. That said, given the narrowness of the carriageway it is unlikely that the recommended interface distance could be achieved. In the absence of this information, I have used my professional judgement and experience to determine whether the degree of separation in this case would be acceptable.
8. The dwellings on the north side of Kinder Street are set above the level of the footpath and look down on the proposed dwelling. Given the difference in levels and the nature of the rooms that would face each other, I consider the degree of separation would, in this case, be acceptable. Accordingly, the development would not result in an unacceptable loss of privacy.

Conclusions

9. Notwithstanding my conclusion on the second issue, this does not outweigh the harm to the character and appearance of the area and the conflict with the Framework and development plan when read as a whole. Accordingly, and having taken all other matters into consideration, this appeal is dismissed.

George Baird

Inspector