

# Appeal Decision

Site visit made on 18 November 2015

**by Alison Roland BSc DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 31 December 2015**

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**Appeal Ref: APP/Z4718/W/15/3132755**

**128 Healds Road, Dewsbury, Kirklees, West Yorkshire, WF13 4HT.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Michael Ingram against the decision of Kirklees Metropolitan Council.
  - The application Ref: 2015/60/91074/E, dated 12 April 2015 was refused by notice dated 8 June 2015.
  - The development proposed is application to build one detached house.
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## Procedural Matter

1. The application was submitted in outline with approval sought for the means of access, layout and scale of the development. I shall determine the appeal on this basis.

## Decision

2. The appeal is dismissed.

## Main Issues

3. The main issues in this appeal are the implications of the proposal for (1) the setting of the adjoining Listed Grade II building Healds House (Nos 128 & 130 Healds Road); (2) the living conditions of adjoining occupiers with regard to the potential for overbearing and overshadowing effects and (3) the future of the protected trees within the front garden of the appeal property.

## Reasons

4. Healds House is a large property now subdivided into three residences with Nos 128 & 130 fronting Healds Road and No 126 occupying a more discrete position to the rear. The list entry dates the listed element of the building (Nos 128 & 130) as largely eighteenth century, with nineteenth century alterations and having sixteenth century fragments at the rear. Although the building has clearly been altered over the centuries, the front façade has a most attractive polite appearance, with its broadly symmetrical disposition of sash windows and single canted bay window set in traditional red brick, beneath a heavy stone flagged roof. Its scale and architectural detailing denotes a building of some status. The list description also refers to a historical association with the Bronte sisters when it

was a school in the early nineteenth century, with both Charlotte Bronte and Anne Bronte cited as attending.

5. The building is set back from Healds Road behind a tall brick perimeter wall and the majority of the garden is to the front of the property. The proposed dwelling would be set within this garden, some 16.5 metres from the front façade of the building, approximately 10 metres back from the front boundary wall.
6. Historical maps submitted on behalf of the appellant show that the site once sat within largely open fields, before becoming surrounded by progressive phases of residential development over the decades. However, these maps also illustrate that aside from some enlargement to the curtilage between 1854 and 1895 when Healds Road was developed to the front of the property, its immediate setting in terms of its curtilage, largely remains intact. As the majority of the garden is to the front of the property and the front façade is seen largely within the enclosed context of that garden, it is to my mind complementary to the listed building, is read in conjunction with it and is a fundamental component of its setting.
7. The erection of a two storey dwelling within that garden would dominate the facade of the building and detract from the largely open and mature landscaped garden which anchors the building to its setting and provides it with its context. It would appear as a clumsy incursion into the garden, with the remaining front garden area appearing disproportionately small relative to the scale and status of the listed property. For these reasons, I am in no doubt that the proposed dwelling would appear as an insensitive and intrusive feature, which would result in substantial harm to the setting of the listed building.
8. The appellant cites the limited views of the frontage of the building from the public domain. However, it seems to me that the setting of a building and the importance attached thereto is not solely contingent on its visibility from public vantage points. Either way, as the upper part of the building can be seen between the gaps in the trees from Healds Road, the proposed dwelling would further conceal what limited public views of the building remain and this adds to my concerns. The proposal would thus conflict with Policies BE1 and BE2 of the Kirklees Unitary Development Plan: Revised with Effect From 28 September 2007 (UDP) which promote good quality design which is in keeping with its surroundings, as well as the advice in the National Planning Policy Framework which seeks to sustain and enhance the significance of heritage assets, including Listed Buildings.
9. The appellant contends that the interest of the building largely derives from its historical associations with the Bronte family and whilst that is doubtless an element of its interest, I have found that the building has intrinsic interest by virtue of its scale, form and architectural detailing, as described in paragraph 4 above and also recounted in considerable detail in the list description.
10. It is also submitted that these concerns could be overcome through a condition requiring the building to be of single storey construction. However, as scale is a matter submitted for approval and the application was for a two storey dwelling, such a condition would prove unreasonable, but would not in any event, overcome my concerns about the fundamental intrusiveness of a dwelling in this location.
11. The appellant submits that the funds released from the proposed development would contribute to the upkeep of the listed building. Whilst that may be so, there is no mechanism submitted to ensure that this would occur in practice, were the

proposal to go ahead. Moreover, in the absence of any identified maintenance, structural or other issues with the listed building, it is by no means clear what deficiencies therein the funds would seek to redress. I therefore attach very limited weight to this particular point.

12. In relation to the second main issue, the Council's concern rests with the potential for the proposed dwelling to be overbearing and overshadowing in relation to the remaining front garden to No 128 Healds Road. I accept the appellant's point that the existing trees to the front and side boundary already have a somewhat enclosing effect on the garden. However, by virtue of the massing of wall of the proposed dwelling along a significant length of the front garden, I consider that this effect would be heightened. The effect would be particularly evident, as the vast majority of the garden lies to the front of the property, where it would be in uncomfortably close juxtaposition to the proposed dwelling and would be rendered less pleasant to use.
13. This issue alone would not lead me to dismiss the appeal, but it adds to my concerns in relation to the first main issue and would bring the proposal into conflict with Policy D2 of the UDP which seeks to ensure that development proposals do not prejudice residential amenity. However, I find nothing within the provisions of Policies BE1 and BE2 cited in the Decision Notice that add to the Council's case on this particular issue. I also consider that the impact in relation to overshadowing effects on the garden area would be limited, as the dwelling would stand lower than the crown of the trees, which will already cast significant shade on the garden.
14. The occupier of No 130 Healds Road has expressed concern in relation to the loss of light to the front of their property. However, as there would be a separation distance of approximately 16.5 metres between the rear of the proposed dwelling and that property, on balance, I consider that there would be no significant diminution to the light reaching the front of that particular dwelling.
15. In relation to the third main issue, the concern identified relates to a series of mature trees along the front and western boundaries which are protected by virtue of Tree Preservation Order No 23 of 2014 (TPO) and are noteworthy and attractive features in the street scene. The trees in question have particularly upright crowns and whilst it may be the case that the dwelling could be constructed without interfering with the trees directly, I have concerns about the long term viability of these trees.
16. In particular, as they would stand very close to the front and side elevation of the proposed dwelling and would be largely orientated to its immediate South East, I consider that there would be a high probability of future occupiers seeking consent to fell or prune these trees. This could arise due to their physical proximity, giving rise to inconvenience due to leaf fall and shading, as well as concerns about limb loss in high winds causing structural damage to the property and/or presenting danger to the use of the garden.
17. The appellant maintains that this issue could be overcome at the reserved matters stage, but as approval is sought at this stage for the layout of the dwelling on the plot, I cannot concur with this view, especially given its limited depth which constrains the opportunities for siting the dwelling away from the trees. This issue would bring the proposal would conflict with Policies BE9 and BE2 of the UDP which

seek to ensure that mature trees within application sites are normally retained and incorporated as integral elements of development proposals.

**Overall Balance and Conclusion**

18. I have found that the proposed development would result in substantial harm to the setting of the listed building and there are no substantial public benefits advanced that would outweigh that harm. The impact of the proposed dwelling in terms of enclosing and overbearing effects on the garden to No 128 adds to that concern, as does my finding in relation to the third main issue, that the proposed development would be likely to lead to future pressure to fell or prune the protected trees. The appeal therefore fails.

*ALISON ROLAND*

INSPECTOR