



Appeal Decision

Site visit made on 6 February 2008

by **R R Lyon MA CEng MICE MRTPI FIHT**

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

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Decision date:
21 February 2008

Appeal Ref: APP/H0738/A/07/2056889

Portus Bar, Ingleby Barwick, Stockton-on-Tees

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Persimmon Homes North East against the decision of Stockton-on-Tees Borough Council.
- The application Ref 07/1356/ARC, dated 30 April 2007, was refused by notice dated 9 August 2007.
- The application sought planning permission for reserved matters application for residential development comprising 35 No. dwellinghouses without complying with conditions attached to planning permission Ref 06/2100/REM, dated 4 October 2006.
- The conditions in dispute are Nos. 02 & 12 which state that:
 - 02.** The development hereby approved shall be carried out in accordance with the following approved plan(s); unless otherwise agreed in writing with the Local Planning Authority. Drawing Number(s):- Site Location Plan: SBC001, Site Layout: IB/E/PLO1 rev.c, House Types: 1699-23&24, 2269-23&24&25&26, 2108-23&24&25&26, 1520-23&24&25,26, 1929-23&24&25&26, 1957-17&18&23&24, 2088-23&24&25&26, 1902-23&24&25&26. Garage Type: IB/E/04
 - 12.** Notwithstanding details shown on the plans hereby approved, prior to any works commencing on the site, a scheme of ground levels and finished floor levels for all properties within the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these approved details.
- The reasons given for the conditions are:
 - 02.** To define the consent
 - 12.** To take into account the sites location in respect to surrounding development

Decision

1. I dismiss this appeal.

Reasons

2. The application that is the subject of this appeal relates to plot No. 419 of planning permission 06/2100/REM; it was submitted after development of that permission was started without the levels condition being discharged. The dwelling on the appeal site is under construction. The appellant responded to the Council's concerns about overlooking and the effect of privacy on the occupants of Brougham Close with a series of measures. Insofar as the effect on living conditions on neighbours from within the dwelling are concerned, I consider that the measures relating to obscure glazing in the rear elevation would be efficacious.

3. The area between the rear elevation and the boundary fence is some 3.1m wide. It is stepped, with the retaining wall and 'path' next to the house being some 0.475m above the 'garden'. The appellant states that the floor levels were set at the submitted height to achieve adequate fall on the approved drainage system; a drain is under the path.
4. From the wall, I could see clearly into the garden of 20 Brougham Close and into the lounge. The appellant proposes a 300mm trellis above the existing 1.8m fence. However, I am not convinced that an open trellis would eliminate the intervisibility and the effect of loss of privacy. The appellant also intends to cover the path in gravel and close it with a gate, providing steps down to the lower garden area from the side of the garage where a door would be located.
5. However, the path takes up a substantial portion of the area behind the house. It is likely that a householder would wish to make use of the whole area and there are a number of ways in which the levels could be exploited to make the area more useful. I consider it highly likely that the path level would be used by householders where the intervisibility that I describe would result in harmful overlooking and a loss of privacy both to the occupants in Brougham Close and to prospective occupants of the appeal site. This would conflict with saved policies GP1 & HO11 of the Stockton on Tees Local Plan.

RR Lyon
INSPECTOR