



Appeal Decision

Site visit made on 1 September 2008

by **Malcolm Rivett BA (Hons) MSc MRTPI**

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

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Decision date:
5 September 2008

Appeal Ref: APP/H0738/A/08/2073498

11 The Avenue, Fairfield, Stockton-on-Tees, TS19 7ET

- 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 Mr and Mrs Yeoman against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 07/3447/OUT, dated 15 December 2007, was refused by notice dated 10 April 2008.
 - The development proposed is outline proposal for one detached bungalow and private garage.
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Procedural matter

1. The application was made in outline with all detailed matters reserved for future consideration. I have therefore determined the appeal purely in terms of the principle of a bungalow on the site. However in reaching my decision I have taken account of an amended, indicative, layout plan, with a revised site boundary, submitted during consideration of the planning application.

Decision

2. I allow the appeal, and grant planning permission for outline proposal for one detached bungalow and private garage at 11 The Avenue, Fairfield, Stockton-on-Tees, TS19 7ET in accordance with the terms of the application, Ref 07/3447/OUT, dated 15 December 2007, and the site boundary shown on the site plan dated 3 February 2008, subject to the conditions set out in the attached Schedule.

Main issues

3. The main issues of the appeal are the effect of the proposal on:
 - the character and appearance of the area;
 - the living conditions of the occupants of 3 and 5 The Avenue, with particular regard to privacy, outlook and light; and
 - landscape features on/adjacent to the site.

Reasons

4. Although the decision notice indicates that the proposal would be unsympathetic to the character of the area it is not clear to me why the Council believes this to be so. "Backland" housing, to the rear of houses fronting The
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Avenue, is part of the existing character of the area with dwellings of this nature immediately to the north and south of the appeal site. Like these properties the proposed dwelling would not be visible from The Avenue. A bungalow would be a form of development in keeping with surrounding properties and the size of its plot, and its distance from neighbouring dwellings, would be comparable with others nearby. The appearance of the dwelling is not the subject of this appeal, although I see no reason why its design, restricted by condition to a maximum height of 5.5m, could not be sympathetic to that of surrounding properties. Consequently I consider that the proposal would cause no significant harm to the character and appearance of the area.

5. The boundary of the appeal site is a minimum of around 11m from 3 The Avenue and significantly more from no 5. A mixed hedge/bushes, which I estimate are up to around 5m in height, separate the site from the rear gardens of nos 3 and 5. During the summer months these would substantially screen the proposal from view from these neighbouring properties. During winter months the screening effect would be less, although to my mind still significant, bearing in mind the overall bulk of the hedge and the presence of evergreen species, and I envisage that the proposal would be glimpsed through the boundary landscaping from nos 3 and 5 rather than being clearly seen. Therefore whilst I accept that the view from the rear of nos 3 and 5 would change to some degree, the proposal would be neither so close nor prominent as to be unacceptably dominant in the outlook from these dwellings/their gardens.
6. Moreover, given its height and distance from the neighbouring dwellings, and the presence of the existing hedge, I am not persuaded that the bungalow would significantly affect the light or sunlight reaching nos 3 and 5 or their gardens. Approval is not currently sought for the detailed design or fenestration of the proposal and I see no reason why it could not be designed such that overlooking of nos 3 and 5, from the dwelling, or from or of no 11, would not occur. I conclude therefore that the proposal would be unlikely to result in any material harm to the living conditions of the occupants of nos 3 or 5. It is argued that guidance in the Council's Supplementary Planning Guidance 2: Household Design Guide, that there should be a 21m back distance between extensions and neighbouring properties, should be applied to this development. However, the outline application does not define the north facing elevation of the proposal as the back of the property and I see no reason why it could not be designed as a side elevation, which the SPG suggests should be at least 11m from the back of a neighbouring property. A dwelling on the plot would achieve such a separation from nos 3 and 5.
7. There are trees on/adjoining the site which are protected by Tree Preservation Orders although I am satisfied that, with appropriate protection during construction works which can be secured by condition, there is sufficient space to construct the proposal without causing harm to the trees or any wildlife for which they provide a habitat. I envisage that, to ensure the protection of the hedge/bushes on the north side of the site, the dwelling would need to be more than the 2m or so from the boundary line shown on the indicative layout plan. However, there is sufficient space within the site to locate the bungalow so as to achieve this. Concern has also been raised about the effect of the access road on the hedge/trees separating the site from no 13 The Avenue. However,

I am not persuaded that this vegetation is of any great merit or of particular value to either the appearance of the site or the living conditions of no 13's occupants, their house being some 7m away beyond their own side drive.

8. In conclusion I consider that, subject to appropriate detailed design which is a matter reserved for future consideration, the proposal would cause no significant harm to the character/appearance of the area, the living conditions of neighbouring residents or landscape features of value. In accordance with policy GP1 of the adopted Stockton-on-Tees Local Plan I have assessed the proposal with regard to its relationship with the surrounding area, its effect on the amenities of nearby properties and the contribution of existing trees and landscape features and I have found that no material harm would be caused. The proposal also has no conflict with policy HO11(iv) of the Local Plan which indicates that new residential development should avoid any unacceptable effect on the privacy and amenity of nearby occupiers.
9. Whilst I note the comments concerning flooding I have seen no evidence to support the view that the proposal would cause, or exacerbate any existing, such problem. I am not persuaded that any ground condition problems on the site could not be addressed during construction of the scheme. I am satisfied that the dwelling could be accessed safely and, given the space available to turn a car within the site, I see no reason why the proposal would be likely to result in cars reversing into The Avenue. I consider that the traffic likely to be associated with one dwelling would be unlikely to cause any significant problems of congestion or disturbance to the occupants of any nearby property and I do not agree that the remaining garden area would be too small for no 11.
10. That there may be empty flats and building plots in the area, and that the Council's decision was made by locally elected Councillors, are not good reasons to refuse permission for the proposal given that I have found it would result in no significant harm. For the same reason, whilst I appreciate that the prospect of the development is causing upset for several local residents this does not justify refusing permission for the proposal.
11. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed. I agree with the Council that to protect the living conditions of neighbouring residents conditions are necessary to restrict the height of the proposal, to remove permitted development rights for its possible extension and to restrict the hours of construction. To ensure a satisfactory form of development conditions concerning materials, boundary treatments, drainage, ground levels and bin storage are also needed. For the reasons set out in paragraph 7 I am applying a condition concerning the protection of existing trees/landscaping, although I have amended those suggested by the Council in the light of the guidance in Circular 11/95 and to avoid unnecessary repetition. The application was made in outline with all detailed matters reserved for future consideration and the submitted layout plan has been described as indicative. Imposition of the Council's suggested first condition would therefore be inappropriate.

Malcolm Rivett

INSPECTOR

Schedule

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins 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 begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall take place until precise details or samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 5) All means of enclosure associated with the development hereby approved shall be in accordance with a scheme to be submitted to, and agreed in writing by, the Local Planning Authority before the development commences. Such means of enclosure as approved shall be erected before the development hereby approved is occupied.
- 6) Full details of the proposed means of disposal of surface water and foul drainage shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby permitted and shall be provided in accordance with the approved details before the development is occupied.
- 7) No development shall take place until details of existing ground levels, both on the site and at adjacent properties which bound the site, and finished ground and floor levels for the proposed development have been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 8) Notwithstanding any description or plans submitted as part of any application for reserved matters, the dwelling and garage hereby approved shall be restricted to single storey and shall not exceed 5.5 metres in height when measured from the original ground level approved in accordance with condition no 7.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), the development hereby permitted shall not be altered or extended by any development falling within classes A, B, C, D or E of Part 1 of Schedule 2 of the above Order.
- 10) No construction activity of the development hereby permitted shall take place on the site outside of the hours 08:00 – 18:00 (Mondays to

Fridays); 08:00 – 13:00 (Saturdays), nor at any times on Sundays or Bank Holidays.

- 11) No development shall take place until details of bin storage have been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be implemented in full prior to the occupation of the development hereby approved and shall be thereafter retained for the life of the development.
- 12) No development shall take place, nor shall any trees or landscaping on the site be lopped, topped, pruned or felled, until a scheme of landscaping has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall indicate those trees and areas of landscaping to be retained and shall include details of methods of working and fencing to be installed for the protection of the trees/landscaping. Development shall take place in accordance with the approved scheme. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of any part of the development hereby approved. The fencing shall be maintained as approved until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within these areas shall not be altered, nor any excavation made, without the written consent of the Local Planning Authority.