



Appeal Decision

Site visit made on 13 October 2008

by **J S Deakin** FRICS

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

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Decision date:
16 October 2008

Appeal Ref: APP/H0738/A/08/2079588

5 Darlington Road, Hartburn, Stockton-on-Tees TS18 5BG

- 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 Blackburn Homes against the decision of Stockton-on-Tees Borough Council.
- The application Ref 07/2525/FUL, dated 4 September 2007 was refused by notice dated 10 April 2008.
- The development proposed is demolition of 1No. double garage and erection of two blocks of apartments (six units in total).

Decision

1. I allow the appeal, and grant planning permission for demolition of 1No. double garage and erection of two blocks of apartments (six units in total) at 5 Darlington Road, Hartburn, Stockton-on-Tees TS18 5BG in accordance with the terms of the application, Ref 07/2525/FUL, dated 4 September 2007, and the plans submitted with it, and as subsequently amended, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building 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.
 - 3) Before residential use commences, the buildings shall be provided with sound insulation to ensure that adequate protection is afforded against the transmission of noise between living accommodation and bedrooms in adjacent flats, in accordance with a scheme which shall have been previously submitted to, and approved in writing, by the local planning authority.
 - 4) Before residential use commences, any living rooms or bedrooms with windows affected by traffic noise levels of 68db(A)L10 (18 hours) or more (or predicted to be affected by such levels in the next 15 years) shall be insulated in accordance with a scheme which shall have been previously submitted to, and approved in writing, by the local planning authority.

- 5) Demolition or construction works shall not take place outside the hours of 0800 to 1800 Mondays to Fridays and 0830 to 1300 on Saturdays and at no time on Sundays, Public or Bank Holidays.
- 6) No construction activity shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied and shall be carried out in accordance with the approved details.
- 7) No construction activity shall take place until there has been submitted to and approved in writing by the local planning authority a plan giving, details of proposed site levels and finished floor levels. Development shall be carried out in accordance with the approved details.
- 8) Block 2 shall not be occupied until the kitchen windows on the west and south gables have been permanently fixed and obscurely glazed in accordance with a scheme which shall have been previously submitted to, and approved in writing, by the local planning authority. The windows shall be permanently retained in that condition thereafter.
- 9) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
- 10) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

Main Issues

2. I consider that the main issues are: (i) the impact of the development on the character and appearance of the street scene; (ii) the effect on the living conditions of nearby residents with particular reference to privacy and visual impact; and (iii) whether the living conditions of future residents would adversely be affected by the amount of private amenity space to be provided.

Reasons

Impact on the character and appearance of the street scene

3. The Council accepts that the site is in a sustainable location within development limits. In the past, the principle of residential development has been accepted, as planning permission has been granted for a single dwelling on the frontage. The front block (Block 1) would have a similar building line to the adjoining house (No.5) and would have the appearance of a traditional domestic building. In my opinion, the design, materials, and appearance would not be out of keeping with the mixed character of the street scene along this part of

Darlington Road. The rear block (No.2) would be well screened by the existing dwelling and by Block 1 and would have very little visual impact on the street scene.

4. I conclude that the development would cause no significant harm to the character and appearance of the street scene.

Impact on the living conditions of nearby residents.

5. I have noted the comments of several neighbouring residents and inspected the appeal site from their gardens. Many of the residents enjoy views towards the attractive mature trees along the north east boundary of the appeal site. However, a right to a view is not a material consideration in determining land use planning matters.
6. 5a Darlington Road and 2 Briar View are closest to the appeal site and would be most affected by the proposal. No detailed plans have been submitted showing final levels but the site slopes down towards the south east and it is probable that the ridge of Block 2 would not be significantly higher than ridge of the existing house at No.5. The west gable of Block 2 would be within about 11.8 metres of the rear corner of No.5a but views would be partly obstructed by existing outbuildings and fences. Windows of No.2 would face directly towards the west gable at a distance of about 33 metres but views would be partially obstructed by the large tree in the garden. Whilst I accept that Block 2 would have some visual impact, I consider that it would not be unduly overbearing because of the separation distances and the screening provided by fences, trees and outbuildings. Furthermore, it would not cause significant loss of light or overshadowing. A condition could be imposed, as suggested by the Council, requiring details of proposed site levels and finished floor levels in order to reduce the impact as far as possible.
7. There would be windows in the south and west gables of Block 2. These would be secondary windows to kitchens; they could be obscure glazed and permanently fixed shut to prevent overlooking of adjoining gardens. A condition could be imposed, as suggested by the Council, to require this. Other windows within the development would not cause undue overlooking and I therefore conclude that nearby residents would not suffer any material loss of privacy.

Amenity Space

8. In the Notice of Refusal, the Council states that the proposal is deficient in formal and informal amenity space. This point was mentioned in the Report to the Planning Committee dated 20 February 2008, when it was said that there was insufficient useable amenity space for a development of this size. The Report went on to say that Ropner Park is within 250 metres of the site and it is judged likely that future residents will use this resource, and therefore a contribution toward this existing open space provision is acceptable. A figure of £14,000 is mentioned elsewhere, as a contribution towards nearby open space provision.
9. Policy HO11 indicates that new residential development should incorporate open space for both formal and informal use. However, the Council has given no detailed information on any policies or supplementary planning guidance

which may set out detailed standards of amenity space, and has not provided any calculations to show that there is inadequate space. Future residents are likely to make use of facilities at nearby Ropner Park, and in the absence of specific evidence to the contrary, I cannot accept that there is insufficient usable amenity space within the appeal site.

10. Furthermore, there is no explanation as to how the sum of £14,000 is calculated or which policies provide for this. In the absence of such information, I consider that the Council has not demonstrated the need for a financial contribution towards the provision of open space.

Other Matters

11. Local residents have raised a number of other matters including highway safety and protection of existing trees. The Council's Highway Engineer does not object to the revised parking layout and visibility splay and I see no reason to disagree with this professional opinion.
12. A detailed report on the trees has been prepared on behalf of the appellants by Batson Environment and Leisure Ltd. This concludes that "generally, the proposals are sympathetic to the trees and have incorporated healthy trees successfully into the scheme. With the use of permeable surfaces etc where possible, the works should have minimal effect upon the general health and condition of the remaining trees". The Report recommends that two trees should be removed in the interests of health and safety and says that retained trees should be protected throughout the development in accordance with BS 5837:2005. A condition should be imposed requiring details of trees and the measures proposed for their protection. This would safeguard the health of trees in the future.
13. I conclude that the development would comply with the adopted Stockton-on-Tees Local Plan Policies GP1, HO3 and HO11.

Conditions

14. The Council has suggested conditions which should be imposed if the appeal is allowed. I impose the standard time limit condition for the start of the development. Prior approval of external materials should be obtained to ensure that the building is in keeping with the surrounding area. Sound insulation between the flats, and to windows affected by traffic noise should be approved before the development commences. The hours of work for demolition and construction activity should be restricted to protect the amenity of nearby residents. Kitchen windows in the gables of Block 2 should be permanently fixed and obscure glazed as discussed above
15. Prior approval of boundary treatments should be obtained to safeguard the appearance of the area. A detailed landscaping scheme is necessary, together with proposals for the protection of existing trees, as discussed above, in order to maintain and enhance the appearance of the site. I have simplified the suggested wording of some of the proposed conditions relating to trees, as exact details can be dealt with at the time of submission of the landscaping and tree protection scheme.

16. It is not necessary to impose a specific condition requiring development to be in accordance with the submitted plans as this is dealt with in paragraph 1 of my decision. Detailed conditions relating to drainage, sewage disposal, and surface water are not necessary as these matters are covered by other legislation, including the Building Regulations.

J S Deakin

INSPECTOR