



## Appeal Decision

Site visit made on 20 April 2009

by **P J Asquith** MA(Hons) MA MRTPI

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

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Decision date:  
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### Appeal Ref: APP/H0738/A/08/2091468

#### The Rookery, South View, Egglecliffe, Stockton-on-Tees, TS16 0JA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr M Farooq against Stockton-on-Tees Borough Council.
- The application Ref. 07/3441/FUL, is dated 10 December 2007.
- The development proposed is described as the demolition of The Rookery and construction of 13 No. apartments in two blocks as detailed in approved application No. 06/3591/FUL.

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#### Decision

1. I allow the appeal, and grant planning permission for the demolition of The Rookery and construction of 13 No. apartments in two blocks as detailed in approved application No. 06/3591/FUL at The Rookery, South View, Egglecliffe, Stockton-on-Tees, TS16 0JA in accordance with the terms of the application, Ref. 07/3441/FUL, dated 10 December 2007, and the plans submitted with it, subject to the conditions set out in the Schedule to this decision.

#### Main issues

2. I consider the main issues in this case to be: first, the impact of the proposal on the appearance and character of the Egglecliffe Conservation Area; and secondly, whether provision should be made for open space contributions?

#### Reasons

##### *Appearance and character*

3. The Rookery is a 1930s Art Deco dwelling situated on a triangular area of land between Uray Nook and Yarm Roads and South View. It is at the north-western edge of the extensively drawn Egglecliffe Conservation Area and is bordered to its east, south and west by recent detached dwellings and flatted accommodation. Planning permission was granted in February 2007 for the extension and conversion of the existing house to form eight apartments, with a separate block of five apartments in the garden to the rear. Following this approval, detailed investigations of the structural condition of the existing building indicated that it would be unlikely to be able to cope with the additional loading from the extension. In light of this the present appeal proposal was submitted for a scheme identical to that previously approved but involving demolition of the existing building and complete new build; it would

be in a style reflective of existing property and the design and external appearance, means of access, car and cycle parking and landscaping would be the same as the previously approved scheme.

4. Subsequent to the lodging of the appeal against the non-determination of the application the Council considered the proposal and resolved that it would have been minded to conditionally approve the application subject to a Section 106 obligation regarding contributions towards nearby open space provision.
5. Having regard to the extant planning permission and the identical nature of the present proposal (save for demolition and complete new-build rather than conversion/extension and new-build) I have no reason to disagree with the Council's assessment that the scheme would be an acceptable and appropriate development which would preserve the appearance and character of the Egglecliffe Conservation Area. I see no conflict with relevant development plan policies that have been referred which seek to ensure to the protection of such areas, the setting of listed buildings, residential amenity and highway and pedestrian safety.

*Open space contribution*

6. In reconsidering the proposals following the lodging of the appeal, the Council considered that, despite the open amenity space that would exist within the site for use by the residents of the apartments, a contribution of £10,500 should be provided towards off-site open space in line with its adopted Supplementary Planning Document (SPD) on Planning Obligations. The appellant has not provided an obligation. In relation to open space and recreation the SPD indicates that provision will be assessed on a case by case basis. The size, type, location and intended uses of the development, along with existing needs, will form the basis of negotiations where contributions are sought. The SPD goes on to state that the presumption will be for on-site provision. The sum sought is based on a formula of £3,500 for every 0.1ha within the application site boundary.
7. I have seen no specific justification for the contribution sought other than the fact that the development would provide two- and three-bedroomed accommodation. Circular 05/2005 on planning obligations indicates that these are intended to make acceptable development which would otherwise be unacceptable in planning terms. Annex B to the Circular requires contributions to be fairly and reasonably related in scale and kind to the proposed development, be reasonable in all other respects (paragraph B9) and standard charges and formulae should not be applied in blanket form regardless of actual impacts (paragraph B35).
8. There is no indication of open space deficiency within the area and although the Council has indicated that a contribution should be towards open space provision at St Margaret's play area it has provided no details of where this is or on what the money would be spent. The Council has not indicated that the level of amenity space in the form of garden area surrounding the proposed flats is inadequate to cater for their future occupants. It has not clearly shown how the development generates the need for the payments sought and there is no evidence of direct linkage of open space needs to the proposal, as is required to be shown by paragraph B9 of the Circular. Therefore the Council's

requirement for an open space contribution in my view fails the tests of the Circular that need to be satisfied. As such, there is insufficient evidence before me to suggest that the open space contribution sought is necessary to make the development acceptable. Accordingly, I do not consider that the absence of an obligation relating to open space contributions is a reason for withholding planning permission.

*Conclusion and conditions*

9. It is therefore my overall conclusion, having regard to the above and all other matters raised that, subject to the imposition of appropriate conditions, the scheme is acceptable.
10. So far as conditions are concerned I shall impose ones along the lines of those suggested by the Council in respect of materials and finishes, means of enclosure (including treatment along the South View frontage), landscaping, tree protection, lighting and details of finished floor levels, to ensure a satisfactory appearance. Conditions are required limiting the hours of construction, to protect the living conditions of adjoining residents and, in the interests of highway safety, conditions are necessary to provide a temporary car park and to ensure that highway works are carried out in South View. To ensure satisfactory drainage I shall impose a condition requiring these details to be agreed. A condition is required to ensure that redevelopment proceeds following demolition of the existing building, in the interests of the appearance and character of the conservation area.

*PJ Asquith*

INSPECTOR

**Schedule of conditions to be attached to the planning permission hereby granted**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Precise details of the materials to be used in the construction of the external walls and roofs of the buildings hereby permitted shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. Development shall be carried out in accordance with the approved details.
- 3) The external render shall be finished and painted and thereafter retained in accordance with a scheme to be agreed in writing by the local planning authority prior to commencement of development.
- 4) All means of enclosure associated with the development hereby permitted, including boundary walling along the South View frontage, shall be in accordance with a scheme to be agreed in writing by the local

- planning authority before development commences. The agreed means of enclosure shall be fully erected before the development is first occupied.
- 5) Details of all external lighting of the buildings and car parking areas together with its means of shielding and alignment shall be submitted to and agreed in writing by the local planning authority before such lighting is provided. The lighting shall be provided in accordance with the agreed details before the development is occupied and shall thereafter be retained in its approved form.
  - 6) Prior to the occupation of the development hereby permitted full details of hard landscape works shall be submitted to and approved in writing by the local planning authority and shall be implemented in accordance with the approved details. The details shall include car parking layouts, vehicle and pedestrian access, hard surfacing materials and construction methods.
  - 7) A detailed scheme for landscaping and tree and shrub planting (including details of all trees to be retained on the site), and a maintenance schedule for a minimum of five years, shall be submitted to and approved in writing by the local planning authority before the development hereby permitted is occupied. Such a scheme shall specify types and species, layout contouring and surfacing of open spaces. The agreed works shall be carried out in accordance with a programme which shall have been submitted to and agreed in writing by the local planning authority prior to the occupation of the development. Any trees or shrubs which within a period of five years from the date of planting die, are removed, 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 agrees in writing to any variation.
  - 8) A scheme in accordance with BS5837:2005 to protect existing trees and vegetation to be retained on the site shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. The scheme shall include details of protective fencing which shall be erected prior to commencement of development and shall be retained for the duration of the construction period. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor any excavation made, without the prior written approval of the local planning authority.
  - 9) The proposed parking bays in the north-east corner of the site shall be constructed using 'no-dig' construction methods. Full details of the construction materials and methods to be employed shall be submitted to and approved in writing by the local planning authority prior to commencement of development and the scheme shall be implemented in accordance with the agreed details.
  - 10) None of the apartments shall be occupied until works for the disposal of sewage and surface water have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved in writing by the local planning authority prior to commencement of development.

- 11) Details of proposed site levels and finished floor levels shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. Development shall be carried out in accordance with the approved details.
- 12) *No development shall commence until a scheme has been submitted to and approved in writing by the local planning authority and has been fully implemented for works to realign the kerb line on the southern approach to South View, the provision of a pedestrian access/crossing point along South View and a revised kerb line and western entrance to the site.*
- 13) Prior to commencement of development a scheme setting out the details of, and the timetable for, demolition of the existing building and the commencement of redevelopment, the latter to be begun within three months of demolition, shall be submitted to and approved in writing by the local planning authority. The timetable for demolition and redevelopment shall be adhered to at all times unless otherwise agreed in writing by the local planning authority.
- 14) Prior to works commencing a scheme for a temporary car park for construction workers to be provided on the site shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented prior to commencement of development and shall thereafter be retained for the duration of the construction period.
- 15) No construction activity shall take on the site before 08.00 Mondays to Fridays and 08.30 on Saturdays or after 18.00 Mondays to Fridays and 13.00 on Saturdays or at any time on Sundays or Bank Holidays.