



Appeal Decision

Site visit made on 15 February 2010

by **Graham Garnham BA BPHIL MRTPI**

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

The Planning Inspectorate
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Decision date:
1 March 2010

Appeal Ref: APP/H0738/A/09/2116909

Former Ace Tarpaulins Ltd, Dovecot Street, Stockton-on-Tees, TS18 1HJ

- 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 Mark Edwards against the decision of Stockton-on-Tees Borough Council.
- The application Ref 09/0637/OUT, dated 9 March 2009, was refused by notice dated 14 May 2009.
- The development proposed is demolition of existing building & construction of 12 bed student accommodation.

Application for Costs

1. An application for costs was made by Mr Mark Edwards against the Council. This application is the subject of a separate decision.

Procedural Matters

2. The application is made in outline, with access, appearance, layout and scale to be considered at this stage. Landscaping is reserved for subsequent approval.
3. The appellant has submitted a signed Unilateral Undertaking dated 7 January 2010, to pay the Council the sum of £3500 for public open space provision in the vicinity of the site. This matter does not relate to the Council's reason for refusal or to my identification of the main issue, and I have not taken the Undertaking further into account.

Decision

4. I allow the appeal, and grant planning permission for demolition of the existing building and construction of 12 bed student accommodation at the former Ace Tarpaulins Ltd, Dovecot Street, Stockton-on-Tees, TS18 1HJ in accordance with the terms of the application, Ref 09/0637/OUT, dated 9 March 2009, subject to the conditions set out in Schedule 1.

Main issue

5. I consider that this is the effect of the proposal on the supply of an appropriate mix of housing.

Reasons

6. I understand that previous schemes for student housing on the site did not get planning permission because of the scale of the buildings and adverse effects on the living conditions of the occupiers of nearby dwellings. The present
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proposal is intended to address the earlier objections. I consider that the Council has accepted that it does, in that its sole reason for refusal is the lack of a satisfactory demonstration of a proven need for the development – not the previous concerns. My identification of the main issue follows from this reason.

7. The Council's requirement to demonstrate need arises from an Interim Student Accommodation Policy Guidance document it approved in November 2008. It appears that this document has been used as part of the evidence base for the Council's Core Strategy, which has yet to be adopted. It has not been subject to the formal processes of consultation or adoption that would be expected of a policy document. I agree with a previous Inspector who reviewed this document in considerable detail, that it can be given very little weight (ref: APP/H0738/A/09/2102926, dated 12 November 2009).
8. The effect of the proposal on the supply of accommodation is nonetheless a matter to take into account. However, the proposal is notably smaller in scale than other schemes that have been mentioned (e.g. those with 520 and 36 beds). No firm evidence has been provided to show that this appeal proposal would in reality jeopardise the prospects of other permitted schemes being implemented. Similarly, I have not seen substantiation of any harm a surplus of 12 student bed spaces would have on the supply of housing accommodation in Stockton. The University of Durham has expressed concerns about an oversupply of student housing occurring, but as it is also a provider with its own accommodation to fill, I can give limited weight to its representations.
9. As a related issue, the Council is concerned that if purpose built student accommodation is not taken up, future problems may arise from difficulties in adapting layouts for non-students and also from the consequences of reduced standards for the provision of car parking. However, while these are general concerns, they have not been applied to the specific nature of the appeal proposal. I am not persuaded, looking at the submitted plans, that it would not be possible to adapt the building if the need arose. In addition, parking is acknowledged not to be an issue in the locality, which appears to have ample onstreet capacity and an absence of parking restrictions.
10. I conclude that there is no evidence that the proposal would have a materially adverse effect on the supply of an appropriate mix of housing. I have also seen no conflict of the proposed access, appearance, layout and scale with adopted development plan policy for housing sites. This is found in saved policies GP1, HO3 & HO11 in the Stockton-on-Tees Local Plan (1997).
11. Although the application is in outline, many of the details are to be considered at this stage. The appellant has not objected to the 11 planning conditions suggested by the Council. Those relating to the reserved matter, submitted plans and details of materials and means of enclosure are all considered standard and necessary in relation to national guidance and securing a satisfactory appearance for the development. The new building would be closely related to nearby housing, and I consider that details of floor levels and the limitation of hours of construction are necessary in the interests of the living conditions of nearby residential occupiers. For the same reason, and in the interests of the appearance of the area, details of the refuse and recycling arrangements also need to be approved. However, I see no reason why sound insulation against noise from excessive traffic should be required in an

apparently quiet residential area, or for there to be control over external lighting in the absence of car parking areas or demonstrated issues of light pollution.

Conclusion

12. Given my findings on the main issue, I can see no reason why the proposal should not proceed. This needs to be in accordance with the planning conditions identified above. For the reasons given above, I therefore conclude that the appeal should be allowed.

G Garnham

INSPECTOR

Schedule 1 - Conditions

- 1) Details of the landscaping (hereinafter called "the reserved matter") 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 matter 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 reserved matter.
- 4) The development hereby approved shall be carried out in accordance with the following approved plans: 0731/LP, 0731/01E, 0731/02E, 0731/03E & 0731/04E.
- 5) Notwithstanding the descriptions of materials in the application, the development hereby permitted shall not commence until details 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.
- 6) Any means of enclosure that is to be associated with the development hereby permitted shall be erected in accordance with a scheme to be agreed in writing by the local planning authority before development commences. Such means of enclosure shall be erected before the development is first occupied.
- 7) Construction works shall not take place on the site outside 0800 hours to 1800 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays and at no time on Sundays or Bank Holidays.
- 8) The development hereby permitted shall not commence until details of the proposed site levels and finished floor levels have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 9) The development hereby permitted shall not be occupied until details of a scheme for refuse and recycling facilities and on-going maintenance have been submitted to and approved in writing by the local planning authority, and implemented in accordance with the approved details.



Costs Decision

Site visit made on 15 February 2010

by **Graham Garnham BA BPhil MRTPI**

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Decision date:
1 March 2010

**Costs application in relation to Appeal Ref: APP/H0738/A/09/2116909
Land at Former Ace Tarpaulins Ltd, Dovecot Street, Stockton-on-Tees,
TS12 1HJ**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Mark Edwards for a full award of costs against Stockton-on-Tees Borough Council.
 - The appeal was made against the refusal of planning permission for demolition of existing building & construction of 12 bed student accommodation.
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Decision

1. I allow the application in the terms set out below.

Reasons

2. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 3. I have outlined the background to this appeal in paragraph 6 of my Decision. The appellant says that the Council should have given very little weight to the Interim Student Accommodation Policy Guidance document it has relied on in its decision [ISAPG], and has not shown that granting planning permission would prejudice the implementation of other schemes. The Council has persisted with its use of the ISAPG even when another Inspector concluded that it should be given very little weight. The Council has failed to substantiate its reason for refusal, and its unreasonable behaviour has caused the appellant the costs of an unnecessary appeal. A full award is sought.
 4. The Council's position is that it was responding to changing circumstances between the appellant's previous scheme and the present proposal. The IASPG document was intended to prevent an oversupply of student housing arising, as an input to the Local Development Framework, and to avoid potential problems in converting such accommodation to other uses. Its stance is supported by the University of Durham, and its decision is justifiable.
 5. I have referred to the previous Inspector's decision in paragraph 7 of my Decision. He gave very detailed consideration both to the IASPG document and to evidence submitted by the University of Durham. He concluded that the arguments based on both sources should be accorded very little weight. His reasoning related to national planning policy with respect to the adoption of
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policy documents and to the General Principles of the Planning System. His decision was dated 12 November 2009. It is referred to in the Grounds of Appeal, dated 13 November 2009.

6. I consider that it is unlikely that the Council would have had the time to consider the implications of the previous Inspector's decision before this appeal was made. However, it had plenty of time to do so before submitting its Questionnaire the following month and its Statement on 11 January 2010. Despite this, the Council has persisted in relying on the IASPG document and representations from the University of Durham. In any event, the matters on which the previous Inspector relied in coming to his judgement on weight are contained in well established national planning policy. I consider that the Council should have given explicit consideration to these before it decided to refuse planning permission in May 2009. I have no evidence that it did so.
7. I have found that the Council has relied on information to which little weight should be attached when it made its decision. It has persisted in doing so even in the light of a subsequent appeal decision, which gave a very clear view on the matter. Moreover, it has failed to substantiate its concerns by providing evidence of any actual harm arising (paragraphs 8 & 9 of my Decision). It has fallen significantly short with respect to paragraphs B15 & B16 in the Annex to Circular 03/2009. Its behaviour has resulted in the appellant incurring the unnecessary expense of lodging and pursuing his appeal.
8. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009 has been demonstrated and that a full award of costs is justified.

Costs Order

9. In exercise of my powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other powers enabling me in that behalf, I HEREBY ORDER that Stockton-on-Tees Borough Council shall pay to Mr Mark Edwards the costs of the appeal proceedings such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.
10. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

G Garnham

INSPECTOR