



Appeal Decision

Site visit made on 15 February 2011

by **Kevin Ward BA (Hons) MRTPI**

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

Decision date: 4 March 2011

Appeal Ref: **APP/H0738/A/10/2139502**

Land North of Blair Avenue, Ingleby Barwick, Stockton-on-Tees TS17 5BL

- 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 Mr R Singh against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 10/1778/FUL, dated 7 July 2010, was refused by notice dated 7 October 2010.
 - The development proposed is mixed use development comprising 81no. bedroom residential care home, 2no. sheltered accommodation units containing 24no. apartments and associated access, parking and landscaping.
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Application for costs

1. An application for costs was made by Mr R Singh against Stockton-on-Tees Borough Council. This application is the subject of a separate Decision.

Decision

2. I allow the appeal and grant planning permission for mixed use development comprising 81no. bedroom residential care home, 2no. sheltered accommodation units containing 24no. apartments and associated access, parking and landscaping at Land North of Blair Avenue, Ingleby Barwick, Stockton-on-Tees TS17 5BL in accordance with the terms of the application Ref 10/1778/FUL, dated 7 July 2010 subject to the conditions set out in the schedule attached to this decision.

Procedural Matters

3. Outline planning permission for a children's nursery, old people's home and Primary Care Trust building on the site was granted on appeal in February 2008 (APP/H0738/A/07/2043347). Appeals concerning reserved matters on a previous outline planning permission (03/2212/OUT) for a community centre and children's day nursery were also allowed in February 2008 (APP/H0738/A/07/2043481 and APP/H0738/A/07/2047869). The Council granted planning permission for a 75 bedroom residential nursing home and a private medical centre building on the site in April 2009 (08/2977/FUL).
4. A care home with 81 bedrooms has been built and is operational. This has been built in accordance with the plans submitted with the application subject to this appeal. Work has started on the other two buildings which are intended to form the sheltered accommodation units. The access road and car parking places have been constructed.

Main Issues

5. The main issues are:

- a) The effect of the development on the character and appearance of the area.
- b) Whether adequate and suitable outdoor amenity space would be provided for the residents of the development.

Reasons

Character and appearance of the area

6. Although there is open land adjacent to the appeal site, the wider locality contains significant amounts of new housing and the land to the north is allocated for residential development. The appeal site is opposite two schools and a library and close to the commercial/retail centre at Myton Way which includes a large supermarket. The immediate surroundings of the site are therefore largely characterised by relatively substantial and prominent building groups.
7. The principle of the site being substantially developed has been accepted in the previous decisions referred to above. The care home has the same footprint and external appearance to that previously approved by the Council. The differences between the two schemes concern the internal layout.
8. The current appeal scheme would see the site largely taken up by buildings, with significant areas of hard surfacing. The care home and the apartment block at the rear of site (Block B) would together extend across most of the width and depth of the site, with very limited space between these two buildings. Given its size and location relatively close to the road, the care home is a prominent feature from a number of viewpoints. The proposed apartment blocks would also be prominent, particularly given the open nature of land immediately along Blair Avenue which I understand has been cleared of trees.
9. However, the apartment block closest to Blair Avenue (Block C) would be set apart from the other two buildings. The area between Block C and the care home along the road frontage would be taken up by a garden area and peripheral landscaping. This would be one of the key views into site.
10. Given their scale and height, landscaping around the boundaries of the site would do little to screen the buildings. It would help to soften their appearance however and I saw that a similar approach to landscaping is common for other large buildings in the locality.
11. The scale, massing and overall appearance of the three buildings would not be out of keeping with other groups of buildings in the immediate area, nor would the overall layout and the relationship of buildings to open areas within the site.
12. I consider therefore that given the context of existing groups of buildings nearby and taking into account the previous decisions relating to the site, the appeal proposal would not result in overdevelopment and would not harm the character and appearance of the area.

Outdoor amenity space

13. I am not aware of any minimum standards for outdoor amenity space applicable to the type of development proposed. Although the garden to the rear of the care home is relatively narrow it runs along the length of the building and in my view provides an adequate amount of outdoor space for residents. There may be some potential for overlooking from the footpath/cycleway that runs alongside the garden but this is only likely as people pass by and the boundary treatments provide a reasonable degree of screening. In any case, given that the garden is a communal area, the potential for overlooking is not likely to have a significant impact on the privacy of residents.
14. Whilst the garden is only likely to experience direct sunlight for part of the day, this is not a particularly unusual situation for such developments in built up areas. Noise from traffic on the nearby roads was apparent at the time of my site visit. Again this is not unusual in such a location and is unlikely to have a significant effect on the enjoyment of those using the garden, nor would any moderate noise from those passing by on the footpath/cycleway. It appears in any case that the garden for the care home is the same as in the scheme previously permitted by the Council.
15. The garden area adjacent to Block B would be close to the access road and parking areas. However, the volume of traffic associated with the development is not likely to be significant and given the layout, vehicle speeds are likely to be low. The potential for noise and disturbance from vehicles is therefore limited.
16. The garden between Block C and the care home would be close to Blair Avenue and therefore subject to additional noise and disturbance from passing traffic. This is not uncommon for such schemes in built up areas however and is unlikely to have a significant effect on the enjoyment of those using the garden. Despite the position of this garden close to the care home and the main pedestrian access to the site, the garden would be enclosed by fencing and so the potential for overlooking would be limited. As those passing by within the site would be likely to be residents, staff or visitors, the potential for noise and disturbance is limited. The main entrance to the care home is set well away from where the garden would be and so the potential for noise and disturbance associated with the day to day operations of the care home would again be limited.
17. The gardens for the apartment blocks would be communal areas serving sheltered accommodation. Expectations of the amount of outdoor amenity space and privacy are not likely to be the same as for separate family dwellings with individual gardens therefore. Likewise, given the nature of the development and its location, those occupying the apartments are likely to expect some level of noise and disturbance from traffic and people walking by.
18. Taking all of these factors into account I am satisfied that adequate and suitable outdoor amenity space would be provided for the residents of both the care home and the proposed apartments.

Other Matters

19. The site is within the limits to development and in the light of my findings above residential development on the site is appropriate in principle and accords with the criteria in Policy HO3 of the Stockton-on-Tees Local Plan. The appeal scheme would contribute to the supply and range of housing and help to meet needs/demands for particular forms of residential accommodation.
20. I acknowledge the concerns in respect of traffic levels in the area and the effect of the appeal scheme on these. However, I note the view of the Council's Head of Technical Services that the traffic generated would be less than from the developments previously permitted on the site. I also note that the parking spaces proposed would satisfy the Council's standards. I consider therefore that the development would not have an adverse effect on highway safety.
21. The appeal scheme would represent relatively high density development. Policy CS8 of the Core Strategy states that higher density development will not be appropriate in Ingleby Barwick. However, the justification for this approach relates to the capacity of the road network and the effect of increased car trips. As noted above the traffic generated is likely to be less than from the previously permitted developments. I have also taken account of the nature of the sheltered accommodation and the close proximity to local services and facilities and public transport links. Under these circumstances I consider that the density of development proposed on the appeal site would be appropriate.
22. The outlook from ground floor apartments to the rear of Block B would be affected by the close proximity of boundary landscaping. Those occupying ground floor apartments at the front of this block would be likely to experience some overlooking along with potential noise and disturbance from those using the communal garden area. However, taking account of the location of the site within a built up area and the likely use of the garden given that it would serve sheltered accommodation, I consider that the effect on the living conditions of future occupiers of the apartments would not be significant.
23. Although in some cases the windows serving apartments in Block C would be close to circulation and parking areas, the level and timing of vehicular movements and other activity within the site is not likely to result in undue noise and disturbance. Those living in apartments with windows facing onto Blair Avenue would be likely to experience some noise and disturbance from road traffic. There would be a landscape strip however and the arrangement proposed is not uncommon in built up areas. Again I find that the effect on the living conditions of future occupiers of the apartments would not be significant.
24. I appreciate concerns regarding the history of development on the site and non-compliance with previously approved plans. However I can only consider the merits of the current appeal scheme before me. Likewise, the fact that the care home has been built and other works have taken place on the site does not have a bearing on my decision.
25. The appellant submitted a duly executed planning obligation in the form of a unilateral undertaking. This concerns a contribution to open space and recreational facilities. On the basis of the Council's Supplementary Planning Document on Open Space, Recreation and Landscaping, I am satisfied that the undertaking is necessary to address the additional demands that the development would have on local open space and recreational facilities. It would be directly related to the development and be fairly and reasonably

related to it in scale and kind. The undertaking satisfies the requirements of Regulation 122 of the Community Infrastructure Levy Regulations and the tests of Circular 05/2005: Planning Obligations and I have therefore given it significant weight in reaching my decision.

Conditions

26. The Council has suggested a number of conditions should the appeal be allowed. For the avoidance of doubt and in the interests of proper planning a condition to ensure that the development is carried out in accordance with approved plans is necessary. Conditions relating to details and implementation of soft landscaping, a landscape management plan and details of fencing around the garden areas are required in the interests of the character and appearance of the area. A condition regarding cycle, refuse and recycling stores is necessary to ensure appropriate provision of such facilities and in the interests of the character and appearance of the area. A condition to control planting within the site lines of the access road is required to ensure highway safety. It is also necessary to impose a condition on the occupancy of the sheltered accommodation to ensure that outdoor amenity space and parking provision are adequate. I have amended the suggested wording of conditions where appropriate in the interests of clarity and simplicity.
27. Sufficient details in terms of external materials have been submitted with the application and given the range of materials used in other buildings nearby, I am satisfied that they would be appropriate. A condition relating to details of external materials is not therefore necessary. Given that the hard surfacing is already in place and I consider it acceptable, it is unnecessary to impose a condition relating to the details of finishing materials. The retention of existing trees and other vegetation would be adequately dealt with by the landscaping conditions referred to above. It does not appear that there are any existing trees on the site at risk during construction and a condition regarding tree protection is not therefore required.
28. Given the position and layout of the buildings proposed, the proximity to well lit roads and other large buildings and the distance from dwellings I consider that a condition relating to external illumination is unnecessary. Given the nature of the development proposed and the close proximity to local services and facilities and public transport links, it is not likely to generate the level of vehicular trips which would in my view justify a condition requiring a travel plan. Furthermore, I have not been made aware of any specific requirement for such a plan in development plan policy. Given the distance from dwellings a condition to control hours of construction is not required.

Conclusion

29. The development would accord with Policy HO3 of the Stockton-on-Tees Local Plan and relevant aspects of Planning Policy Statement 1: Delivering sustainable development and Planning Policy Statement 3: Housing. For the above reasons and taking account of other matters raised I conclude that the appeal should succeed.

Kevin Ward

INSPECTOR

Schedule of conditions for Appeal Ref: APP/H0738/A/10/2139502

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: A-00 Rev C, A-01 Rev B, A-02 Rev D, A-03 Rev A, A-04 Rev A, A-05 Rev A, A-06, A-07, A-08, A-09 and A-10.
- 2) The sheltered accommodation units shall not be occupied until full details of soft landscape works have been submitted to and approved in writing by the local planning authority. These details will be a planting plan and specification of works indicating soil depths, plant species, numbers, densities, locations, inter relationship of plants, stock size and type, grass and planting methods including construction techniques for pits in hard surfacing and root barriers. All existing or proposed utility services that may influence proposed tree planting shall be indicated on the planting plan. All soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of the sheltered accommodation units or in accordance with a programme agreed with the local planning authority.
- 3) A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to and approved by the local planning authority prior to the occupation of the sheltered accommodation. The landscape management plan shall be carried out as approved.
- 4) 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.
- 5) The sheltered accommodation units shall not be occupied until fencing around the garden areas has been erected in accordance with details submitted to and approved in writing by the local planning authority.
- 6) The sheltered accommodation units shall not be occupied until the cycle, refuse and recycling stores have been erected in accordance with details submitted to and approved in writing by the local planning authority.
- 7) Any planting carried out within the site lines of the approved means of access shall be a maximum of 600mm high and retained as such.
- 8) The sheltered accommodation units shall only be occupied by those aged 55 and over as Category 2 sheltered housing accommodation.



Costs Decision

Site visit made on 15 February 2011

by **Kevin Ward BA (Hons) MRTPI**

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

Decision date: 4 March 2011

Costs application in relation to Appeal Ref: APP/H0738/A/10/2139502 Land North of Blair Avenue, Ingleby Barwick, Stockton-on-Tees TS17 5BL

- 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 R Singh for a full award of costs against Stockton-on-Tees Borough Council.
 - The appeal was against the refusal of planning permission for mixed use development comprising 81no. bedroom residential care home, 2no. sheltered accommodation units containing 24no. apartments and associated access, parking and landscaping.
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Decision

1. I refuse the application for an award of costs.

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. The Council's reason for refusal concerns the design and layout of the proposed development and the resultant effect on the character and appearance of the area and the adequacy of amenity space for residents. To a large extent these are matters of judgement.
4. The officer's report to the Planning Committee was comprehensive, setting out clearly all relevant issues, the benefits of the scheme and the context provided by previous decisions in terms of a fallback position.
5. The Council was entitled to exercise its judgement in relation to the impact of the development on the character and appearance of the area and the adequacy of amenity space, and to take a decision contrary to officer recommendations.
6. The reason for refusal was complete, precise, specific and relevant to the application. In the absence of specific development plan policies concerning the form of development proposed, it was not inappropriate to refer to national planning policy concerning design and housing. The Council's appeal statement contains a comprehensive and robust case, with detailed analysis of the effects of the development which adequately substantiates its reason for refusal.
7. I am satisfied that the Council has taken proper account of the previous decisions concerning the site. There are clearly differences between the

current appeal scheme and the developments subject to previous approvals, both in terms of the detailed layout and design and the inclusion of sheltered housing. The Council was entitled to make a judgement as to the different impacts when compared with these previous approvals.

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 03/2009 has not been demonstrated.

Kevin Ward

INSPECTOR