



Appeal Decision

Site visit made on 18 July 2011

by Malcolm Rivett BA (Hons) MSc MRTPI

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

Decision date: 2 August 2011

Appeal Ref: APP/H0738/A/11/2151973

Vacant Plot, Rear of 6 Forest Lane, Springfield Grove, Kirklevington, TS15 9LU

- 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 John Gray against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 10/2322/FUL, dated 5 September 2010, was refused by notice dated 2 November 2010.
 - The development proposed is new dwelling on vacant plot.
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Decision

1. I dismiss the appeal.

Main Issues

2. The main issues of the appeal are the effect of the proposal on (i) the character and appearance of the area; (ii) the walnut tree on the site; and (iii) the living conditions of the occupants of the proposed dwelling and 6 Forest Lane, having particular regard to privacy.

Reasons

3. The appeal site is currently dominated by the walnut tree situated on it, which is, to my mind, an important and attractive element of the character and appearance of Springfield Grove. The proposed dwelling would occupy a substantial proportion of the site (which the appellant himself describes as being of "minimal area") and would be within 2m of its side boundaries and 5m of its front boundary. The 5m or so high, gable-fronted living room/bedroom projection of the dwelling (and at least part of four windows, including a bay and a dormer) would be constructed within the current spread of the crown of the walnut tree. I note there is a significant discrepancy in the identified spread of the tree between the submitted block plan and drawing no 02, although at the time of my visit the tree extended at least to, if not beyond, the more extensive spread shown on drawing no 02. The Design and Access Statement appears to justify the gable-fronted projection by the presence of such features on other nearby properties, although I note there is no explanation of its appropriateness in the context of the walnut tree on the appeal site.
4. I recognise that some individual elements of the scheme are comparable with existing properties in the area. However, I consider that, taken together, the size of the plot, the footprint of the dwelling, its relationship with the site's boundaries and its position, height and presence of windows in close proximity

to the walnut tree would give the proposal an excessively cramped and overdeveloped appearance, harmful to the setting of the tree and to the character and appearance of the area. I therefore find that, despite the appeal site not being within a Conservation Area, the scheme conflicts with policy H03 of the adopted *Stockton-on-Tees Local Plan* which indicates that residential development should be sympathetic to the character of the locality.

5. I note that outline permission (07/3378/OUT) was granted for a bungalow on the site. Although the approved layout of this scheme is similar to that of the current proposal it does not incorporate the, now proposed, bay window which would project into the spread of the walnut tree. Moreover, scale and appearance are reserved matters of the outline approval and, although its height and window positions were not specifically limited by condition, the projection of a first floor elevation and a dormer window into the spread of the tree (as is now proposed) is not an inevitable implication of the approved layout of the bungalow, despite the presence of dormer bungalows in the area. The outline approval has therefore carried little weight in my decision. The appellant makes reference to the comment in the Council Officer's report that "the dwelling would not be out of keeping with the surroundings to a degree which would warrant refusal of the application" although it is, to my mind, clear that this concerns its design characteristics as opposed to its scale. It is correct that the Council's views on the proposal are largely subjective - as are mine - although this is inevitable, and not inappropriate, in considering the effect of a scheme on the character and appearance of an area.
6. As indicated above the presence of the dwelling would harm the setting of the walnut tree. Moreover, based on the more accurate drawing no 02, the majority of the living room bay window and this room's side window, would be obscured by the tree. Furthermore, the outlook from the part of the bay window furthest from the tree would be itself severely restricted by the proximity of the side boundary. Given that the outlook from the other rooms of the dwelling would be also very restricted, I consider there is a strong likelihood that its occupants would seek the removal or severe (rather than "not unduly onerous") pruning of the tree to secure more light in, and a less restricted outlook from, the property. It is of course the case that the removal, or pruning, of this protected tree would require the approval of the Council. Nonetheless, bearing in mind the very poor living conditions which would be likely to be experienced by occupants of the dwelling, I envisage it likely that the Council would feel unable to resist such works to the tree, despite the harm it would cause to the character and appearance of the area. I therefore conclude that the proposal would be likely to threaten the long term existence, in its current form, of the walnut tree and that, in this respect, the scheme conflicts with policy H03's requirement that residential development takes account of and accommodates important features of the site.
7. Despite the proximity of the proposal's kitchen window to the ground floor rear windows of 6 Forest Lane, the presence of the boundary fence would prevent any significant views from one property into the other. The kitchen window would, to some degree, be overlooked by the first floor side window of no 6. However, bearing in mind the angle of view and that this window appears to serve stairs/a landing, I am not persuaded that any significant loss of privacy for the occupants of the new dwelling would be likely to result. Obscured glazing of the new dwelling's bathroom roof lights (which, along with controls over the extent of their opening, could be secured by condition) would ensure

an appropriate level of privacy for the occupants of the proposal and no 6. Moreover, I also envisage that the obscured glazing would be readily apparent to the neighbouring residents and that, thus, there would be no reasonable perception of a lack of privacy because of these windows. In this respect I therefore conclude that the scheme has no conflict with policy H03's requirement that residential development does not result in an unacceptable loss of amenity to adjacent land users.

8. Whilst I have found the scheme to be acceptable in terms of the privacy of its occupants and neighbouring residents, it would cause significant harm to the character and appearance of the area and would be likely to threaten the long term future, in its current attractive form, of the walnut tree on the site. For these reasons, and having regard to all other matters raised, including the pre- and post-application discussions between the appellant and Council, I conclude that the appeal should be dismissed.

Malcolm Rivett

INSPECTOR