
Appeal Decision

Site visit made on 12 August 2013

by M Seaton BSc (Hons) Dip TP MRTPI

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

Decision date: 22 November 2013

Appeal Ref: APP/H0738/A/13/2196082

46 Emsworth Drive, Eaglescliffe, Stockton-on-Tees, TS16 0NP

- 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 Martin Walker against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 13/0217/REV, dated 29 January 2013, was refused by notice dated 19 March 2013.
 - The development proposed is for the demolition of an existing detached garage and construction of a detached two-storey house.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of an existing detached garage and construction of a detached two-storey house at 46 Emsworth Drive, Eaglescliffe, Stockton-on-Tees, TS16 0NP in accordance with the terms of the application, Ref 13/0217/REV, dated 29 January 2013, subject to the conditions set out in the Annex.

Procedural Matter

2. Amended plans were submitted by the appellant prior to the determination of the planning application by the Council. The plans show revisions to the design of the dwelling amounting to an overall reduction in footprint, height and size focussed towards the rear elevation of the proposed dwelling. There is no evidence before me to indicate that the Council re-consulted neighbouring occupiers, but I note that the amendments reduced the overall size and scale of the development. I have assessed the impact of the revised plans and I am satisfied that no party would be prejudiced by my determination of the appeal on this basis. However, in referencing the amended plans, I have noted that not all plans have been indicated as 'Revision A', and therefore in respect of plans 5 of 6 and 6 of 6, for ease of reference I have indicated them by their date.

Main Issue

3. The main issue in this instance is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site is occupied by a semi-detached dwelling and its garden, and is part of the large residential curtilage to No. 46 Emsworth Drive, which is formed as a result of the geometry and layout of this part of the wider

development. The proposed dwelling would infill the existing gap between Nos.46 and 44 Emsworth Drive, which was previously the location of a single storey garage positioned on the boundary.

5. The proposed dwelling would be set back from the road and would respect the existing 'building line' created by development on this side of Emsworth Drive. The proposals would incorporate an open-plan frontage comprising two parking spaces and garden, and in this respect would be in keeping with the wider character of the development. The scale, massing and footprint of the proposed dwelling would differ from other dwellings nearby. However, I observed a wide variety of house designs and types within both the street and the wider development on my site visit. Furthermore, whilst the proposed dwelling would close much of the existing gap in the streetscene, as a result of the variety of different house types and the presence of two-storey side extensions, there is no uniformity in the size of gaps between buildings within the surrounding streets. Consequently, the proposals would not appear as an incongruous addition to the streetscene by virtue of its design, scale or massing.
6. The appeal site occupies an uncharacteristically large plot in comparison with the majority of sites in the wider area. The layout of the appeal proposals would leave reasonably sized residual garden areas for both the proposed dwelling and No.46 Emsworth Drive. Whilst the gardens would be smaller than those immediately adjacent, they would provide sufficient space to allow a normal range of garden activities to take place and would not be readily visible from the street. I have therefore concluded that the proposals would not amount to overdevelopment.
7. I have noted the concern raised by third parties over the effect of the proposed hardstanding on the visual amenity of the appeal site. However, whilst many properties in the vicinity have retained their front gardens, I observed at the site visit that other properties within the wider development have converted their front gardens to hardstanding. The incorporation of an area of hardstanding would not therefore appear incongruous in the context of the wider development.
8. For these reasons, the proposed development would not have a harmful impact on the character and appearance of the area. The development would not conflict with Policy CS3 of the Stockton-on-Tees Core Strategy Development Plan Document (2010) and Policy HO3 of the Stockton-on-Tees Local Plan (1997). These policies seek to protect against poor quality development and encourage development that responds positively to the existing local character of the area. The development would also accord with the objectives of the National Planning Policy Framework, which seeks to ensure that development is sustainable and of a high standard of design that can integrate with the character of an area.

Other Matters

9. Third parties have raised a number of concerns regarding the appeal proposals, including matters relating to parking and highway safety, and the impact on the living conditions of neighbouring occupiers having regard to privacy, light, and noise and disturbance. In respect of highway issues, I noted at the site visit that a cluster of vehicles were parked close to the appeal site but that the wider development was not heavily parked on-street. I also observed that the

majority of properties within the vicinity of the appeal site possessed the ability to accommodate at least one vehicle on private drives or hardstanding. Furthermore, the Council Highways team has offered no objection to the development on highway safety grounds or to the proposed level of off-street parking spaces for the dwelling. Therefore, on the basis of the evidence before me, I am not persuaded that the one additional dwelling would result in highway safety issues or an exacerbation of traffic congestion within the locality.

10. With regards to the impact of the proposed development on living conditions, the dwelling would occupy a gap between two existing dwellings. The siting and design of the proposed dwelling would not result in an adverse impact on light to habitable room windows in either neighbouring property, although the removal of permitted development rights for additional extensions would ensure that this would be safeguarded in the future against any further unchecked development or extensions on the appeal site. Existing dwellings located on the opposite side of Emsworth Drive would be located sufficiently far away for there to be no significant adverse impact. In respect of privacy, there would be a degree of mutual overlooking into neighbouring gardens, but this is already the case between the vast majority of existing dwellings and would not result in an adverse or unacceptable impact on the living conditions of neighbouring occupiers. There would also not be any unreasonable loss of privacy to habitable room windows either in neighbouring dwellings, or those in properties on the opposite side of the street.
11. Concerns have also been expressed over the potential for noise and disturbance during the construction period, particularly to those who are reliant on a quiet environment during the daytime, due to shift working or for other reasons. Whilst I recognise that noise from the site during the daytime may have an impact on some individuals or households, it would be unreasonable to prevent such works during daytime hours, and which would be for a temporary period in any event. The Council's environmental health team has suggested a condition regarding the control of hours of construction which I agree would be merited as a means of safeguarding the amenity of the wider area.
12. Representations have been made to the effect that Mr M. Bain's (the occupier of No. 48 Emsworth Drive) rights under Article 8 of the European Convention on Human Rights would be violated if the appeal were allowed. I do not consider them to be well-founded because the proposed development would not have the alleged impact on privacy highlighted as an impingement to the right to a private family life under Article 8. The relationship between the proposed development and No. 48 Emsworth Drive would not result in an unacceptable degree of overlooking given the residential character of the area and existence of similar privacy relationships between a significant proportion of other dwellings on the wider development. As a result, there would be no violation of Mr M. Bain's human rights.
13. I have noted that third parties have raised further issues with regards to the impact on local infrastructure and services, biodiversity, the setting of precedent, devaluation of property, the presence of other significant development which has been approved in the locality, and rights to light legislation. The Council has addressed points relating to infrastructure and services, biodiversity and precedent in its report, but has not articulated these matters into the reasons for refusal. In the absence of any additional evidence

to the contrary, I consider that these matters would not warrant the refusal of the scheme.

14. It has also been suggested that the proposed development would cause a reduction in property values in the area, although I have not seen any evidence that this would be the case. In respect of the reference made to rights to light legislation, this would be a private matter which would not prevent the grant of planning permission.

Conditions

15. The Council has suggested a number of conditions which it considers would be appropriate were the appeal to be allowed. However, the appellant has disputed the majority of these as being unduly onerous or unnecessary. I have therefore considered the suggested conditions in the light of Circular 11/95.
16. In the interest of proper planning, conditions relating to timeliness and the identification of plans would be necessary. Whilst details of the proposed materials are indicated on the planning application forms, the submitted plans and elevations do not provide a clear indication of the materials to be used on the proposed dwelling. Therefore a condition requiring the approval of details of the materials for all external surfaces of the dwelling would be necessary to maintain the character and appearance of the area.
17. Whilst I have noted the appellants assertion that the means of enclosure on the site would be addressed through permitted development rights, I am satisfied that a condition requiring details of the indicated means of enclosure would be an appropriate means of safeguarding the appearance of the development. Furthermore, a condition detailing the materials proposed for hard landscaping would be required both in respect of ensuring a satisfactory appearance to the development, but also so that surface water run-off drains satisfactorily on the site. The requirement to meet Code Level 4 in the Code for Sustainable Homes is clearly embedded within the development plan policies of the Core Strategy, and a condition would secure a reduction in energy consumption by the development, which is a reasonable requirement.
18. Conditions related to the provision of both parking areas and the secure cycle storage prior to the occupation of the development would ensure that satisfactory vehicular parking and cycle storage provision would be available and maintained for future occupiers. I am satisfied that whilst the development is for a single dwelling, that a restriction of hours of working during the construction period would be reasonable in this predominantly residential area, as a means of safeguarding the living conditions of neighbouring occupiers.
19. The Council has suggested a condition requiring details of levels on the site. However, it was clear from my visit to the site that there is no significant variation of levels on the appeal site, and that the appearance and relationship of the development with neighbouring dwellings is clear from the submitted plans. The imposition of this condition would therefore be unnecessary. However, whilst I have noted the appellant's position in respect of the removal of permitted development rights, I am of the opinion that such a condition would be required given the relationship, the angle of the development, and the consequent proximity that further extensions may have to the rear elevation of the existing property at No. 46 Emsworth Drive. This would

ensure that the living conditions of the neighbouring occupiers would be safeguarded.

Conclusion

20. For the reasons given above and subject to the conditions listed, the appeal should be allowed.

M Seaton

INSPECTOR

Attached – Annex – Conditions

Annex

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Other than as required by the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, and Drawing Nos. 3 of 6 Revision A, 4 of 6 Revision A, 5 of 6 dated 25/01/13, and 6 of 6 dated 25/01/13.
- 3) Notwithstanding any description of materials in the application, no development shall take place 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.
- 4) The dwelling shall achieve Level 4 of the Code for Sustainable Homes. The dwelling shall not be occupied until a final Code Certificate has been issued certifying that Code Level 4 has been achieved and this has been submitted to, and approved in writing by the Local Planning Authority.
- 5) No development shall take place until full details of hard landscape works have been submitted to and approved in writing by the local planning authority. These details shall include details of all external finishing materials confirming colours and finishes. Such details shall provide for the use of permeable materials or make provision to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site. The scheme shall be implemented in accordance with the approved details and prior to the occupation of the development.
- 6) The dwelling shall not be occupied until car parking space for both the proposed dwelling and the existing bungalow at No. 46 Emsworth Drive has been provided in accordance with drawing No. 4 of 6 Rev. A.
- 7) Prior to the occupation of the dwelling, provision shall be made within the site for secure cycle parking facilities in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented and retained in accordance with the approved details.
- 8) No development 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 dwelling is occupied and be carried out in accordance with the approved details.
- 9) No demolition, construction works or delivery of materials shall take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 09:00 hours to 13:00 hours on Saturdays, and not at any time on Sundays or Bank Holidays.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no enlargement or

extension of the dwelling house, as permitted by Class A, B, C and E of Part 1 of the Second Schedule of the Order, shall be constructed.