
Appeal Decision

Site visit made on 21 May 2014

by M Seaton BSc (Hons) Dip TP MRTPI

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

Decision date: 18 June 2014

Appeal Ref: APP/H0738/A/14/2215083

208 Durham Road, Stockton-on-Tees, TS19 0PT

- 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 John Dobbing against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 13/1887/OUT, dated 15 August 2013, was refused by notice dated 15 October 2013.
 - The development proposed is the construction of a detached dwelling in the rear garden area of 208 Durham Road, Stockton.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application forms submitted in support of the planning application do not make any reference to the application having been submitted in outline only, although I note that the accompanying Design and Access Statement indicates this to be the case. The Council has assessed the application as having all matters (access, layout, appearance, landscaping and scale) reserved for later approval, and this has not been disputed by the appellant. I have therefore also dealt with the appeal on this basis, treating the plans submitted as indicative of the type of development that could be carried out.
3. The content of the recently national Planning Guidance has been considered, but in light of the facts in this case the national Planning Guidance does not alter my conclusions.

Main Issues

4. The main issues in this case are:
 - the effect of the proposal on the character and appearance of the area; and
 - whether or not the development would safeguard the living conditions of the neighbouring occupiers of Nos. 206, 208 and 210 Durham Road, having regard to privacy, and noise and disturbance from vehicular and pedestrian movements.

Reasons

Character and appearance

5. The appeal site is occupied by a two-storey semi-detached property, which possesses a large private rear garden. Whilst I have had regard to the set-back position of the neighbouring dwellings at Nos. 204 and 206 Durham Road, the character of Durham Road in the vicinity of the appeal site is comprised predominantly of detached and semi-detached properties set towards the front of large linear plots. The indicative position of the proposed dwelling would be broadly aligned with the position of Nos. 204 and 206 Durham Road, however the form of tandem development proposed would not be characteristic of the immediate area. Whilst I have noted the appellant's contention that the design of the dwelling would incorporate architectural elements exhibited on existing dwellings nearby, the introduction of a dwelling in this location would result in an unacceptable encroachment of development into the generally open and distinctive character provided by the private gardens to the rear of the Durham Road properties.
6. I conclude that the proposed development would have an adverse effect on the character and appearance of the area. The proposal would conflict with saved Policy HO3 of the Stockton on Tees Local Plan 1997 (the Local Plan) and Policy CS3(8) of the Stockton on Tees Core Strategy Development Plan Document 2010, which seek to ensure that residential development makes a positive contribution and is sympathetic to the character of the local area. Furthermore, the development would not accord with paragraph 17 of the National Planning Policy Framework (the Framework), which requires development to take account of the character of different areas.

Living conditions

7. The application has been made with all matters reserved, and with the precise details of the development remaining unknown. However, the Council has expressed concern over the potential relationship with existing dwellings, and the consequent effect on living conditions.
8. The proposed dwelling is indicated to be a dormer-style bungalow, and is shown on the indicative plan to be 15.8 metres from the rear elevation of No. 208 Durham Road. On the basis of the detail on the indicative plan it would be reasonable to assume that the dwelling would possess first floor habitable room windows within the front dormer, and also on the ground floor. Whilst I have noted the appellant's stated intention to erect a 1.8 metre high fence on the boundary between the appeal site and the rear garden of No. 208 Durham Road, the proximity between the two dwellings would result in the opportunity for mutual overlooking at relatively close range, which would not safeguard the living conditions of the occupiers of either No. 208 Durham Road or the proposed dwelling. Whilst I observed the existing substantial screening on the boundary between the appeal site and No. 210 Durham Road, a similar relationship would exist between the first floor windows of this dwelling and the proposed dwelling.
9. The indicative plan shows the appeal proposal as being positioned adjacent to the flank elevation of the main house at No. 206 Durham Road. Whilst the absence of windows in the main side elevation of the neighbouring property

would not present an opportunity for a loss of privacy between habitable room windows, the potential removal of trees from part of the shared boundary would result in a reduction in the existing level of screening available to the occupiers of No. 206 Durham Road. Whilst I have taken into account that the appeal site is at a significantly lower level to the neighbouring ground level, this would not militate sufficiently against the potential for overlooking and a consequent loss of privacy to users of the rear patio area of the neighbouring dwelling, from the rear first floor of the proposed dwelling.

10. The appellant has indicated that the existing garage to No. 208 Durham Road would be removed to facilitate access to the appeal site, which would run adjacent to the boundary with the front garden of No. 206 Durham Road. In this respect concern has been raised by the Council and neighbouring occupiers over the impact that vehicular and pedestrian movements would have on the occupiers of Nos. 206 & 208 Durham Road. However, there is no evidence before me to indicate that the anticipated levels of vehicular and pedestrian traffic generated by the proposed dwelling would be either significant or excessive. As a result, and in the context of the residential area, there is no basis upon which to conclude that the level of noise and disturbance from the intermittent use of the access or the manoeuvring of vehicles within the appeal site would be out of the ordinary or unacceptable.
11. Whilst I have considered the possibility of repositioning the footprint of the proposed dwelling within the site, such a revision would appear unlikely to resolve the outstanding issues related to living conditions without the potential to create further issues. Therefore, on the basis of the evidence placed before me and my observations on the site, I conclude that the development would fail to safeguard the living conditions of the neighbouring occupiers of Nos. 206, 208 and 210 Durham Road, having regard to privacy. The proposals would not accord with saved Policy H03 of the Local Plan which seeks to ensure that development does not result in an unacceptable loss of amenity to adjacent land users. Furthermore, the proposed development would conflict with the Framework which seeks at paragraph 17 to secure a good standard of amenity for all existing occupants of land and buildings.

Other Matters

12. The Council has referred to the potential for the proposed development to set a precedent for other similar proposals, whilst the appellant has referred to the existence of other examples of such development within the Durham Road and Darlington Road areas of Stockton. Whilst the Council has not provided any specific details of genuinely comparable sites, there are undoubtedly similarities between the character of the appeal site and other nearby sites. However, I am satisfied that the Council would be able to resist any development which could be shown to be likely to cause any demonstrable harm. In respect of other such existing or approved developments, the appellant has not provided any specific examples, and I am therefore unable to draw any conclusions on similarities between the circumstances and decision-making processes involved. I have therefore attached only very limited weight to matters related to precedent and previous planning decisions.
13. The highway access for the proposed development and existing dwelling at No. 208 Durham Road is indicated as occupying the same position as the existing access, albeit with the incorporation of a visibility splay. Whilst I acknowledge

that the application has been made in outline with matters relating to access reserved, I am satisfied from my observations on the site that an access to the proposed development could be satisfactorily accommodated without an adverse impact on highway safety. In this respect I have taken into account the lack of objection on highway safety grounds from the highway authority. I have also had regard to the absence of objections from Northern Gas, Northumbrian Water, and the Council's Private Sector Housing Division and Environmental Health team. However, whilst the absence of objections from these parties would weigh in favour of the development, this would not be sufficient to outweigh the harm which I have identified in respect of the main issues.

14. Representations were made to the effect that the neighbouring occupier of No. 206 Durham Road, Mr Adderley, would have his rights under Article 8 of the European Convention on Human Rights violated if the appeal were to be allowed. However, as I have decided to dismiss the appeal, I do not need to deal with the question of whether the decision would result in a violation of his rights.
15. I have had careful regard to the concerns of interested parties in respect of the impact on trees and biodiversity, whether there would be sufficient capacity in existing sewer and water mains, that the land has been subject to flooding in the past, and the devaluation of property. However, I note that these are not matters which have been articulated by the Council into reasons for refusal, and no compelling evidence has been placed before me to warrant their inclusion as additional reasons. Furthermore, as I am dismissing the appeal for another reason, my decision has not turned on these matters.

Conclusion

16. For the reasons given above I conclude that the appeal should be dismissed.

M Seaton

INSPECTOR