

Appeal Decision

Site visit made on 2 August 2016

by **David Cross BA (Hons), PGDip, MRTPI**

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

Decision date: 1 September 2016

Appeal Ref: APP/H0738/W/16/3148988

22 Birchfield Drive, Eaglescliffe, Stockton-on-Tees TS16 0ER

- 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 Mark Kirkbride against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 15/2585/FUL, dated 15 October 2015, was refused by notice dated 22 December 2015.
 - The development proposed is construction of detached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of detached dwelling at 22 Birchfield Drive, Eaglescliffe, Stockton-on-Tees TS16 0ER, in accordance with the terms of the application, Ref 15/2585/FUL dated 15 October 2015, subject to the conditions set out in the Schedule to this decision.

Application for Costs

2. An application for costs was made by Mr Mark Kirkbride against Stockton-on-Tees Borough Council. This application will be the subject of a separate Decision.

Procedural Matter

3. The appellant has submitted an amended proposed site plan (ref. no. 1472/03 'B') which depicts a bay window on the front of the proposed dwelling. This reflects the proposed floorplans and elevations submitted with the planning application and I consider that the amended proposed site plan is acceptable as a minor amendment to ensure consistency. I have therefore determined the appeal on that basis.

Main Issues

4. I consider the main issues are:
 - the effect of the proposal on the character and appearance of the area; and
 - the effect on the living conditions of future residents, with particular regard to amenity space.
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Reasons

Character and Appearance

5. The proposal consists of the construction of a detached dwelling to the side of the host property. The appeal site is adjacent to the junction between Birchfield Drive and Birchfield Close, and due to the set back of the properties on either side of the junction the streetscape has an open and spacious character. It is a characteristic of this estate that dwellings located adjacent to junctions are set back from the highway to create an open streetscape.
6. The proposed dwelling would be located between the host dwelling and Birchfield Close, and would therefore be located in the area which contributes to the open character of the streetscape around the junction. However, from the plans provided to me and on the basis of my site visit, it is apparent that the area to the side of the host dwelling is particularly generous in comparison with similar properties on this estate. Given this situation, and due to the scale of the proposed dwelling as well as the proposed set back from Birchfield Close, the proposal would not appear as an overbearing or dominant feature which would be harmful to the open character of the street scene around the junction.
7. The Council has referred to the projection of the proposal beyond the building line along Birchfield Close to the rear of the site, particularly in relation to the front elevation of 2 and 4 Birchfield Close. However the building line along Birchfield Close is not extensive or well defined as this consists of two blocks of semi-detached dwellings with the block to the east being set further back. Although the proposed dwelling would project beyond the front elevation of Nos 2 and 4, the degree of projection is relatively minor and the proposal would not appear as a prominent or incongruous feature projecting into the streetscape of Birchfield Close.
8. The Council has also expressed concern that the proposal represents an overdevelopment of the plot leading to a cramped form of development. However, the proposal is set back from the site boundaries with a suitable gap from the host dwelling and would not appear out of context with the surrounding area. Although the proposed dwelling is narrower than the host dwelling, the detailing of the proposed dwelling would complement the existing dwelling and would be representative of houses in the wider area. Due to the mix of housing designs in the area, the design of the dwelling and the set back from the boundary, the proposal would not appear as a cramped or incongruous development within the street scene.
9. Taking the above matters into consideration, I conclude that the proposal would not have an adverse impact on the character and appearance of the area. It would therefore comply with policy CS3 of the Stockton-on-Tees Core Strategy 2010 (CS) which states that development should make a positive contribution to the local area by responding positively to local character. It would also comply with saved policy HO3 of the Stockton-on-Tees Local Plan (LP) which states that development should be sympathetic to the character of the locality and should not result in an unacceptable loss of amenity to adjacent land users. These policies are broadly consistent with the National Planning Policy Framework (the Framework) and in particular paragraphs 17, 56 and 64 which establish the core planning principles and require good design as a key aspect of sustainable development.

Living Conditions

10. The Council has expressed concern that the amount of amenity space proposed would not be suitable for a 3 bed family property, particularly as the area to the rear would be reduced to a depth of approximately 7 metres to enable the provision of a parking space. However, the submitted plans show that a private amenity area would be provided to the rear and side of the dwelling which I consider would be of suitable dimensions to provide for residents of the property. No substantive evidence has been provided to me to demonstrate that the amenity area for the proposed dwelling would be insufficient.
11. The appellant has highlighted nearby dwellings which have amenity areas of a similar size to that of the proposed dwelling. In response, the Council has stated that this should include the area to the front of the dwellings, which in the case of the appeal proposal would be occupied by the driveway and would not be available as a garden amenity area. Notwithstanding this, whilst the garden of the proposed dwelling garden would be smaller than garden/amenity areas elsewhere on the estate, this does not indicate that the amenity area would be deficient for the needs of future residents of the dwelling.
12. Taking the above matters into consideration, I conclude that the proposal would not have an adverse effect on the living conditions of future residents as it would provide suitable amenity space. It would therefore comply with policy HO3 of the LP which seeks, among other things, to protect the amenity of land users. This policy is broadly consistent with the Framework, and in particular paragraph 17, in terms of securing a good standard of amenity for existing and and future occupants of land and buildings.

Other Matters

13. I have had regard to comments received in relation to highway safety, particularly in relation to the proximity of the proposed driveways to the junction. However, I note that the Highways, Transport and Environment Manager has raised no highways objections to the proposal subject to conditions. It was also apparent at my site visit that the driveways would be laid out with suitable visibility to enable vehicles to enter and leave the site in a safe manner.
14. The rear elevation of the proposed dwelling would face onto the side of No 2 Birchfield Close. However, the side elevation of No 2 does not contain windows of main habitable rooms and the proposed dwelling would not therefore result in a significant loss of privacy to residents. Due to the separation distance between the properties the proposal would also not lead to significant overshadowing or loss of light to No 2. I also note that it is proposed to reduce the height of the fence to the rear of the site to provide a visibility splay for a proposed driveway which would overlook the front garden of No 2. However, the garden is open plan and is readily visible from the adjacent highway. I therefore consider that the proposed driveway would not lead to an undue loss of privacy for residents of No 2 compared to the existing open plan layout of the garden and due to the intermittent nature of the use of the driveway.
15. I am mindful of the concerns raised that the grant of planning permission would set a precedent for other similar proposals. However, each proposal should be considered on its individual merits, and due to the circumstances of

this development specified above, a generalised concern in relation to precedent does not justify withholding planning permission in this case.

16. I have also had regard to the concerns expressed about overshadowing and overlooking of nearby dwellings as well as noise and traffic movements arising from the development. However, due to the separation distances from nearby properties and the arrangement of the dwelling, the proposal would not result in significant overshadowing or overlooking of nearby properties. Furthermore, given that the proposal relates to a single dwelling, the proposal is unlikely to result in an unacceptable level of noise from the occupation of the dwelling or a significant increase in traffic movements. Reference has also been made to drainage from the site, however this matter can be addressed by a suitable planning condition. The concerns about the supply of housing in the area, impact on property values and potential conflict with byelaws are not matters which would justify withholding planning permission.

Conditions

17. The Council has suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance and retained Annex A (model conditions) of former Circular 11/95: Use of Conditions in Planning Permission. As a result, I have amended some of them for clarity.
18. In addition to the standard 3 year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans. I have placed a condition on the permission requiring the submission of details of materials prior to the commencement of development in the interests of the character and appearance of the area. A condition requiring that driveways are constructed using permeable materials prior to occupation and subsequently used solely for the parking of vehicles is required to ensure suitable drainage from the site and in the interests of highway safety.
19. A condition controlling the times of demolition and construction is required in the interests of the amenity of residents of the area. A condition to deal with unforeseen contamination is required to ensure that risks to residents and property are minimised. A condition requiring alterations to the fence to the rear to ensure adequate visibility from the driveway is required in the interests of highway safety. A condition requiring the submission of a scheme of foul and surface water drainage prior to the commencement of development is appropriate in the interests of proper site drainage.
20. I do not, however, find it necessary to require a condition removing permitted development rights, as due to the relationship of the proposed dwelling to adjacent properties, I do not consider that this is needed to make the development acceptable in planning terms.

Conclusion

21. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

David Cross

Inspector

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drg. No. 1472/01 'O' dated Oct 14; Drg. No. 1472/02 'O' dated Oct 14; Drg. No. 1472/03 'B' dated Oct 14 (as amended 16 March 2016); and Drg. No. 1472/04 'O' dated Oct 14.
- 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the dwelling 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 not be occupied until the driveway for the proposed dwelling and the extended driveway for the host dwelling have been drained and surfaced with permeable materials in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, and shall thereafter be retained as such and kept available at all times for the parking of vehicles.
- 5) Demolition or construction works (including the delivery or removal of materials) shall take place only between 08:00 to 18:00 on Mondays to Fridays and 09:00 to 13:00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 6) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 7) The driveway to the rear of the site shall not be brought into use until the fence has been reduced to 0.6 metres high with a 2 metre set back in accordance with details which shall have been submitted to and approved in writing by the local planning authority.
- 8) Development shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall take place in accordance with the approved details.