
Appeal Decision

Site visit made on 31 January 2017

by **Helen Hockenhull BA(Hons) B.PI MRTPI**

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

Decision date: 24 February 2017

Appeal Ref: APP/H0738/W/16/3159756

Land South of Cayton Drive, Thornaby TS17 0HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mandale Construction North Ltd against Stockton-on-Tees Borough Council.
 - The application Ref 16/1024/REM, is dated 19 April 2016.
 - The development proposed is described as 'reserved matters approval (appearance, landscaping, layout, access and scale) for the erection of 45 No. dwellings, access from Cayton Drive and ancillary works pursuant to outline planning consent ref 15/1466/OUT'.
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"This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 10 February 2017"

Decision

1. The appeal is dismissed and planning permission for the erection of 45 No. dwellings, access from Cayton Drive and ancillary works pursuant to outline planning consent ref 15/1466/OUT is refused.

Application for costs

2. An application for costs was made by Mandale Construction North Ltd against Stockton-on-Tees Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. The appeal was made because of the Council's failure to determine the planning application within the prescribed period. The Council has confirmed in their statement that if they had determined the application it was likely that it would have been refused on the grounds that the development would adversely impact on the amenity of existing and proposed residential properties by virtue of the form, layout and scale of the proposed development. I have used this potential reason for refusal to frame the first main issue.
 4. The appellant details a second potential reason for refusal regarding the access to the site. Whilst the Council have not indicated that they would have refused the application on these grounds, in light of the concerns from a number of neighbouring residents in this regard I have considered this as a second main issue.
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5. Outline planning permission (all matters reserved) for residential development of up to 45 dwellings was granted on appeal on 8 March 2016. The current appeal relates to the failure to determine a reserved matters application seeking approval of all matters as outlined in the banner heading above. I have considered the appeal on this basis.

Main Issues

6. The main issues in this case are:
- the effect of the proposed development on the living conditions of the occupiers of existing and proposed dwellings with particular regard to outlook and daylight;
 - the effect of the proposed development on highway safety.

Reasons

Living conditions

7. The submitted layout proposes a number of dwellings located close to the rear garden boundaries of existing residential properties on Liverton Crescent and Lockton Crescent.
8. Saved Policy HO3 of the Stockton- on -Tees Local Plan 1997 permits residential development provided that amongst other things it does not result in an unacceptable loss of amenity to adjacent land users. The Council's Supplementary Planning Document 1 – Sustainable Design Guide 2011 (SPD) states that where main habitable room windows face windows of secondary rooms or a blank gable there should be a gap of at least 11 metres between the two properties.
9. The proposed dwellings have side elevations facing the rear elevations of existing properties on Liverton Crescent and Lockton Crescent. The dwellings have a separation distance of around 12 metres and therefore exceed that required by the SPD. However the SPD provides guidance only and advises that the required separation distance will depend upon individual circumstances and may need to be increased.
10. I observed on my site visit that many of the neighbouring properties have single storey rear extensions. Whilst I acknowledge these vary in size, length and design, the effect of these extensions is to reduce separation distance between existing habitable room windows and the side elevations of the proposed dwellings. The Council have indicated that in the case of No. 29 Lockton Crescent and Plot 4 the separation distance between the proposed dwelling and the rear extension would be approximately 8.5 metres and between the rear extension to No. 21 Liverton Crescent and Plot 43, around 9 metres. These distances would be below that required by the SPD.
11. The proposed dwellings would be sited between 1.5 metres and 3 metres from the rear garden boundaries of neighbouring houses. I accept that the proposed dwellings along this northern boundary are well spaced and that neighbouring occupiers would to some extent be able to maintain some outlook viewing in between them. However this would vary depending on the siting and would not be the case for all properties. The dwelling proposed on Plot No. 4 for example would extend across nearly the full length of the rear

garden boundary of the adjoining dwelling. I consider that having regard to the proposed siting close to rear boundary fences, together with the achievable separation distances, the proposed dwellings would have an overbearing and enclosing effect on the rear habitable room windows and rear gardens of neighbouring dwellings. This would adversely affect the outlook for the occupiers of these properties.

12. I have noted the sections provided by the appellant that show that a number of the proposed dwellings would have a floor level below that of neighbouring properties. I also acknowledge that the proposed dwellings would have a hipped roof on the boundary with existing residential properties. However I consider that whilst these factors would assist to reduce the overbearing effect of the proposed dwellings, this would only be to a limited degree insufficient to overcome the harm I have identified.
13. The Council have also raised concern with regard to loss of daylight to the neighbouring properties and gardens. I have however been provided with no evidence such as a daylight/sunlight analysis to demonstrate that such a material loss of light would occur. In addition having regard to the siting of the proposed dwellings, the gaps between them and the proposed hipped roofs, I am not persuaded that the proposed development would result in a significant loss of daylight significantly affecting the living conditions of the occupiers of neighbouring dwellings.
14. The Council have suggested that they would have been minded to refuse planning permission with regard the adverse impact on the amenity of occupiers of the proposed dwellings. However I have been provided with no evidence to substantiate this view. I therefore consider that the appeal scheme would have no adverse impacts in this regard.
15. Although I have found that the appeal proposal would cause no material harm in terms of loss of sunlight, I consider that in terms of outlook, the scheme would adversely affect the living conditions of the neighbouring occupiers. The proposal would therefore conflict with Saved Policy HO3 of the Stockton-on-Tees Local Plan 1997 and the requirements of the Council's Sustainable Design SPD which aim to ensure that the amenity of existing land users is maintained. It would also fail to comply with paragraph 17 of the National Planning Policy Framework (the Framework) which seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

Highway safety

16. I note that the indicative layout provided with the outline planning application allowed on appeal indicated two access points to serve the development. However this application reserved all matters including access for later approval. It is therefore open to the appellant to alter the access proposals in the reserved matters submission. As a result of landownership difficulties the appellant has amended the scheme and a single access is proposed from Cayton Drive. It is the acceptability of this access that must be considered in the determination of this appeal.
17. The appellant has provided a Highways Note to demonstrate that the proposed access would be acceptable in terms of highway capacity and safety. This

addresses amongst other things the width of the proposed and surrounding highways, car parking within the site and the access for emergency vehicles.

18. On my site visit I looked at the residential road network leading to Cayton Drive. Whilst I noted some on street car parking, I observed that most properties had driveways and garages providing parking for vehicles off road. Neighbouring residents have highlighted existing problems in passing through the residential estate due to on street car parking. The appellant's Highways Note demonstrates that Cayton Drive and Liverton Crescent are wide enough to allow an emergency vehicle to pass through even if there is a parked vehicle on the road. I have no evidence before me that existing residents cannot pass through the estate though there may be narrow pinch points on occasion due to parked vehicles. The proposed development provides adequate car parking within the site for future residents. Therefore the proposed development should not add to the demand for on street car parking on the neighbouring residential roads. The ability of vehicles to pass through the nearby residential estate should therefore not worsen.
19. I acknowledge the concerns of many neighbouring residents with regards the impact of the traffic generated by the appeal proposal. However on the basis of the substantive evidence before me and the lack of objection from the Highway Authority I consider that the appeal scheme would be acceptable in terms of highway safety. In this regard the proposal would comply with Policy CS2 of the Stockton-on-Tees Core Strategy Development Plan Document 2010 which aims to ensure that new development has no adverse impacts on the existing road network and paragraph 32 of the Framework which seeks to achieve a safe and suitable access for all people.

Conclusion

20. Whilst I have found the appeal proposal would be acceptable in highway safety terms, I have found that the development would cause harm to the living conditions of the occupiers of neighbouring dwellings with regard to outlook. I consider that this harm would not be outweighed by the benefits of the scheme.
21. For the reasons given above and having had regard to all other matters raised, I dismiss this appeal.

Helen Hockenhull

INSPECTOR