



Appeal Decision

Site visit made on 15 January 2018

by **Caroline Mulloy BSc (Hons) DipTP MRTPI**

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

Decision date: 26th January 2018

Appeal Ref: **APP/H0738/W/17/3185009**

42 Junction Road, Norton TS20 1PW

- 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 Gary Hutchinson against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 17/0872/FUL, dated 28 March 2017, was refused by notice dated 7 July 2017.
 - The development proposed is erection of two dwellings (semi-detached) to the rear of 42 Junction Road.
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Decision

1. The appeal is allowed and planning permission is granted for erection of two dwellings (semi-detached) at 42 Junction Road, Norton, TS20 1PW in accordance with the terms of the application, Ref 17/0872/FUL, dated 28 March 2017 subject to the following conditions set out at the Schedule attached to this Decision.

Application for costs

2. An application for costs was made by Mr Gary Hutchinson against Stockton-on-Tees Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in this case are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of existing occupiers at 3 and 5 Grantham Road and surrounding occupiers with specific reference to privacy; and
 - The effect of the proposal on highway safety with specific reference to parking and manoeuvrability.

Reasons

Character and appearance

4. The appeal site is situated within the substantial rear garden of 42 Junction Road, a large detached dwelling located on the corner of Junction Road and Grantham Road. The surrounding area is predominately residential characterised by two-storey detached, semi-detached and terraced properties.

5. The appeal proposal is for two semi-detached dwellings which would front onto Grantham Road. They would be two and a half storeys with a pitched roof design and projecting bay window detail. Grantham Road is characterised by two-storey semi-detached and terraced dwellings with bay windows and a gable feature above the bay. Properties are set behind small front gardens enclosed by low boundary walls.
6. The proposed properties would be semi-detached which is consistent with the predominant form of development in Grantham Road. The plots would be narrower than the surrounding development; however, they would have a similar depth. The plot coverage and frontage arrangement would be similar to surrounding properties and the proposal would maintain the building line along Grantham Road. The host property would retain a good sized garden and the proposed dwellings would have sufficient garden land to the rear to undertake the usual range of activities such as sitting out, drying clothes and playing. The separation between properties would be consistent with properties along Grantham Road. Consequently, I do not consider that the dwellings would appear excessive in their plots or result in over-development of the site.
7. The maximum roof height of the proposal would be 9.2m and the appellant considers that due to the ground levels, the proposed dwellings would be broadly similar in height to the existing properties. The eaves height of the proposed dwellings would also be similar to the adjacent properties. No cross sections of the proposal or street scenes showing relative heights of the proposed development in relation to surrounding properties have been submitted. However, even if the ridge of the roofs were to be higher, the host property is a substantial property with a high ridge height and the proposal would, therefore, provide an appropriate visual transition between the host property and dwellings on Grantham Road. Consequently, I consider that the proposed dwellings would not be at odds with the scale of surrounding properties.
8. Although the proposal would have a more contemporary appearance than surrounding properties the overall scale, massing and plot coverage would broadly reflect the character of the surrounding area. In addition, the materials would be consistent with those of surrounding properties. Furthermore, architectural detailing such as the bay window and entrance detailing is reflective of design features contained on existing properties. Taking these factors in combination, I consider that the proposal would be consistent with the character and appearance of the area.
9. The proposal would result in the loss of some trees, however, the Council's Principal Tree and Woodland Officer considers that the trees are of a low amenity value and do not contribute to the wider landscape character and would not, therefore, be worthy of a Tree Preservation Order. From everything which I have seen in submissions and on my site visit, I have no reason to disagree. In any event, I have imposed a condition requiring details of landscaping in order to ensure that some replacement planting is provided.
10. Residents are concerned that the proposal would create a precedent for similar developments on corner plots. However, I have considered the appeal proposal on its own merits.
11. For the reasons stated, the proposal would not harm the character and appearance of the area. It would not, therefore, be contrary to criterion 8

Policy CS3 of the Council's Core Strategy (Core Strategy) Development Plan Document 2010 or saved Policy H03 of the Council's Local Plan (1997) which together seek to ensure that residential development is sympathetic to the character of the locality and makes a positive contribution to the area. Neither would conflict arise with paragraph 56 of the National Planning Policy Framework (the Framework) which states that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people.

Living Conditions

12. The Council's Sustainable Design Guide 2011 Supplementary Planning Document 1 (SPD1) requires a minimum separation distance of 21m to be provided between the main habitable room windows on facing residential properties. Paragraph 4.8.3 of the SPD states that these residential standards may be applied flexibly, where the context of the site demands. The Council acknowledge in the Committee Report that these are guidelines only and that each case must be decided on its merits. The proposed development would be situated approximately 17m from the properties opposite, Nos 3 and 5 Grantham Road.
13. The proposed development would be off-set to No 5 which in any event faces No 4 Grantham Road. The proposal would maintain the building line and would not, therefore, result in a material loss of privacy to the existing occupiers of No 5.
14. The proposal would directly face No 3 Grantham Road (No 3); however, this would be broadly at the same distance as opposing houses along Grantham Road. The bay windows of the proposed properties would be slightly off-set to the bay window of No 3. Indeed the bay window of the southern most property would face the front door of No 3. The first floor window of the proposed property directly facing No 3 would be a bathroom window which would be obscured. Taking into account the above factors and the relationships of existing properties along the street, I do not consider that the proposal would result in a material loss of privacy to No 3.
15. The appeal site backs onto the rear gardens of Nos 3, 5, 7 and 9 Whitfield Road and No 40 Junction Road (No 40). The proposed development would achieve a separation distance of around 24m with the properties in Whitfield Road which meet the requirements of the SPD and would be sufficient to maintain privacy. There would be a minimum distance of 34m to the rear of 40 Junction Road. Consequently, I am satisfied that the proposal would not result in a loss of privacy to occupiers of those properties.
16. The proposed dwellings would only face a small section of the rear garden of No 44 Junction Road and there would be a distance of 24m to the rear elevation windows. Consequently, I am satisfied that the proposal would not result in a loss of privacy to the occupiers of those properties.
17. There would be 6m between the side elevation of No 4 Grantham Road which is comparable to the distance between the gable elevations of properties on the road and there would be no windows in the side elevations of the proposed dwellings. The proposal would not, therefore, result in a loss of privacy or outlook to the occupiers of No 4.

18. For the reasons stated, I conclude that the proposal would not result in a loss of privacy to existing occupiers of 3 and 5 Grantham Road or surrounding properties. It would not, therefore, conflict with saved Policy H03 of the Local Plan or the SPD which together seek to ensure that residential development does not result in an unacceptable loss of amenity to adjacent land users. Neither would conflict arise with paragraph 17 of the Framework which seeks to secure a good standard of amenity for all existing and future occupiers.
19. The SPG 2 Householder Extension Guide is only relevant to residential extensions. Furthermore, paragraph 57 of the Framework is related to the first main issue rather than living conditions.

Highway Safety

20. The Council and surrounding residents are concerned that the proposal would lead to an intensification of the use of the road which has no turning facilities. Concerns are also raised that the proposal would result in a loss of on-street parking in the street where they consider that demand for on-street parking is high. A number of photographs have been submitted by showing differing levels of parking within the street.
21. At the time of my site visit (0930) there was some on-street parking on both sides of Grantham Road although there were plenty of vacant spaces. I acknowledge that levels of parking may be higher in the evening and indeed, the response of the Council's Highway, Transport and Environment Manager indicates that there are high levels of on-street parking. However, the proposed dwellings would have their own driveways which would provide two in-curtilage parking spaces in accordance with guidance set out in SPD3 Supplementary Parking Provision for Developments. As the parking requirements can be met within the site, the proposal would not result in additional on-street parking.
22. Furthermore, there is no cogent evidence before me that the loss of parking spaces outside of the appeal site would result in parking stress or harm to highway safety. Indeed I noted on my site visit that cars tend to park further along or on the opposite side of the road. In addition, I have imposed a condition which withdraws/limits permitted development rights for the proposed dwellings to ensure that they could not be extended to more than three bedrooms and thus increase the demand for parking. Consequently, I do not consider that the proposal would exacerbate the existing parking situation.
23. Residents are concerned that vehicles would have difficulty leaving their driveways due to cars parked on the opposite side of the road. However, the proposal would make provision for parking within the curtilage of the site and would not, therefore, increase the demand for on-street parking. The plans show the required visibility splay of 2m by 2m on either side of the driveway. The Council's Highway, Transport and Environment Manager considers that the location of the fence on the side of 4 Grantham Road does not make the existing situation any worse and from everything which I have seen in submissions and on my site visit, I have no reason to disagree.
24. I note the concerns of the Council and residents regarding the need for cars and lorries to reverse down the road due to the lack of a turning area; however, this is an existing situation and the proposal would not alter this. I do not consider that the very small amount of traffic generated by the appeal

proposal would exacerbate the existing situation, particularly as parking would be accommodated within the appeal site. Whilst I do not underestimate the concerns of the Council and residents there is no cogent evidence before me that the development would constrain manoeuvrability.

25. Attention is drawn to the potential redevelopment of the former Education Centre and Blakestone Lane; however, few details are provided of these cases which limit the weight that I can attach to them in my Decision. In any event, the highways implications of future schemes would be considered on their own merits.
26. I note that the Council's Highway, Transport and Environment Manager does not object to the proposal on grounds of highway safety subject to conditions and from everything which I have seen in submissions and on my site visit and in the absence of evidence to the contrary, I have no reason to disagree.
27. For the reasons stated, I conclude that the proposal would not cause harm to highway safety with the suggested conditions. It would not, therefore, be contrary to saved Policy H03 of the Local Plan which states that residential development may be permitted provided that satisfactory arrangements can be made for access and parking.

Other matters

28. Representations have been received regarding restrictive covenants on the properties along the road; however, this is a separate legal matter.
29. Comments have also been received regarding the effect of the proposal on drainage in the area, however, I note that Northumbrian Water have not raised any objections and from everything which I have in submissions and on my site visit, I have no reason to disagree.
30. The construction phase of the development would only be temporary and I have imposed conditions requiring a construction method statement and a further condition to control the hours of operation of construction activity.
31. Residents consider that the trees within the site act as a buffer to traffic noise on Junction Road; however, the trees are not protected and could, therefore, be removed at any time.
32. Concern has been raised regarding the implications of the proposal for wildlife, however, there is no cogent evidence before me of the presence of protected species on the appeal site.
33. Paragraph 49 of the National Planning Policy Framework (the Framework) states that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of housing sites. Paragraph 59 of the recent Supreme Court judgment¹ of 11 May 2017 makes it clear that the primary purpose of paragraph 49 is to trigger the operation of the tilted balance in paragraph 14 where the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites. Whilst there is no evidence before me relating to housing land supply, the Council acknowledge that it cannot demonstrate a five year supply.

¹ Suffolk Coastal District Council v Hopkins Homes Ltd and SSCLG, Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council [2017] UKSC 37

34. The proposal would make a contribution, albeit limited, to housing land supply. It would also have some economic benefits in the short term during the construction phase and in the longer term as future occupiers would support local businesses. It would, therefore, be consistent with paragraphs 47 and 18 of the Framework which seek to boost the supply of housing and secure economic growth. Furthermore, I have found that the proposal would not have a harmful effect on the character and appearance of the area, living conditions or highway safety and would comply with the development plan. It would, therefore comply with paragraphs 17, 32 and 56 of the Framework. Consequently, adverse impacts do not exist which would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal, therefore, represents sustainable development.

Conditions

35. The Council has suggested a number of conditions in the event that the appeal is allowed. Where imposed, I have amended some conditions for clarity and to meet the Framework tests. In addition to the standard time limit (1), I have imposed a condition (2) requiring that the development is carried out in accordance with the approved plans in the interests of certainty. Conditions (3) (4) requiring the approval of details of the external materials and also means of enclosure are necessary in the interests of character and appearance.
36. A condition (6) requiring that the visibility splays shown on the submitted plans are retained for the lifetime of the development is required in the interests of highway safety.
37. The Council has suggested a condition which would remove permitted development rights for development falling within Classes A, B and C of part 1 the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
38. Paragraph 017 (Reference ID: 21a-017-20140306) of the Planning Practice Guidance (PPG) states that conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances. The scope of such conditions needs to be precisely defined by reference to the relevant provisions in the GPDO 2015 so that it is clear exactly which rights have been limited or withdrawn. Area wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. I, therefore, assess below whether each element of the GPDO would meet the exceptional test.
39. Class A of Schedule 2, part 1 of the GPDO relates to the enlargement, improvement or other alteration of a dwelling house. The enlargement of the dwelling house could result in additional bedrooms and a higher occupancy of the property. This may result in a greater demand for parking which could not be accommodated within the curtilage of the site and thus it is necessary to restrict 'enlargements'. However, Class A could also include some relatively minor alterations which would not result in a higher occupancy. I have, therefore, not included reference to alterations in the condition.

40. Class B of Schedule 2, part 1 of the GPDO could enable a substantial roof enlargement subject to restrictions and Class C could enable the insertion of rooflights which could result in the subdivision of the proposed accommodation in the roofspace resulting in higher occupancy of the dwellings and a higher demand for parking. Consequently, I have included reference to additions and alterations to the roof in the condition. In summary, I conclude that condition (5) restricting permitted development rights within the terms expressed above is necessary in the interests of highway safety and meets the exception test.
41. Conditions (7, 8, 9) require details of schemes of hard and soft landscaping and their implementation. I consider that these are necessary in the interests of character and appearance.
42. A condition (10) relating to unexpected land contamination is required to ensure the safety of future occupiers. Further conditions (11,12) relating to hours of construction and demolition and requiring a Construction Method Statement are necessary in order to protect the living conditions of existing and future occupiers.

Conclusion

43. For the reasons stated and taking all other considerations into account the appeal should succeed subject to the conditions set out in the Schedule attached to this Decision.

Caroline Mulloy

Inspector

Schedule

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: P3466/SITE; P3466/01A Existing site plan; P3466/03A proposed floor plans and elevations; P3466/02B proposed site plan.
- 3) Construction of the external walls and roof shall not take place until details of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved details.
- 4) No development shall take place until there have been submitted to and approved in writing by the local planning authority details of the enclosures. Such enclosures shall be erected before the development hereby approved is occupied.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions, enlargements, or enlargements, additions or alterations to the roof shall be erected or constructed other than those expressly authorised by this permission.
- 6) The visibility splays shown on plan P3466/02B shall be retained for the lifetime of the development.
- 7) No development shall take place until there shall have been submitted to and approved in writing by the local planning authority a scheme for all hard landscaping works. The development shall be undertaken in accordance with the approved scheme and implemented in full prior to the development being brought into use.
- 8) No development shall take place until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development. Details of soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate.
- 9) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 10) 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.

- 11) Demolition or construction works shall take place only between 0800 and 1800 on Monday to Friday; 0800-1300 on Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 12) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) The site construction access;
 - ii) the parking of vehicles of site operatives and visitors;
 - iii) loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the development;
 - v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - vi) wheel washing facilities;
 - vii) details of the routing of associated HGV's;
 - viii) measures to protect existing footpaths and verges;
 - ix) measures to control the emission of dust and dirt during construction;
 - x) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - xi) delivery, demolition and construction working hours
 - xii) method of communication with local residents.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.