



Appeal Decision

Site visit made on 21 August 2018

by **Philip Major BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24th August 2018

Appeal Ref: APP/H0738/W/18/3200864

Rear of 433 Thornaby Road, Thornaby, Stockton-on-Tees TS17 0AB

- 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 S Taylor against the decision of Stockton-on-Tees Borough Council.
 - The application Ref: 17/1208/FUL, dated 5 May 2017, was refused by notice dated 16 February 2018.
 - The development proposed is the erection of two pairs of semi-detached properties (four dwellings).
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Preliminary Matter

1. I am informed that the Council cannot demonstrate a 5 year supply of deliverable housing sites. The National Planning Policy Framework (NPPF) 2018 indicates that where the most important policies for determining the application are out of date, planning permission should be granted unless (amongst other matters) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole. The lack of a 5 year housing supply weighs in favour of the proposal and housing supply policies may be regarded as being out of date. But those are not the only policies of importance in this case.

Decision

2. The appeal is dismissed.

Main Issue

3. The main issue in the appeal is whether the proposed dwellings would provide adequate living conditions for the residents of the properties.

Reasons

4. The locality in which the appeal site is located is primarily residential, but there are pockets of commercial development. One such commercial development is immediately to the east of the site. This is a garage workshop. I have no knowledge of whether or not there are any controlled hours of operation of that business, but representations suggest not.
5. The proposed dwellings would back onto the common boundary with the garage workshop, and would be in close proximity to it. The principal access to the garage premises is to the eastern elevation away from the appeal site, but it is clear from what I saw at my site visit that the small rear area of the garage has been used for the storage of surplus parts and materials. Together

with the potential for noise from within and around the garage building (such as air tools and other mechanical implements) the use of the property as a whole seems to me to have the potential to generate significant disturbance. I note that the owner of the business has indicated that there are occasions when the business operates outside conventional hours.

6. Any disturbance would be likely to be felt in the rear gardens and rooms of the houses proposed, and this is acknowledged in the noise report submitted in relation to night time noise. The proposed mitigation, with 2m high fencing, triple glazing, and mechanical ventilation to bedrooms, is clearly aimed at lessening or removing the potential for disturbance. But the fact that such mitigation is proposed suggests to me that the juxtaposition of houses with a garage workshop business, with only a few metres between them, illustrates that the 2 uses are not likely to be well-matched neighbours.
7. The noise assessment carried out establishes that there could be adverse impacts in the night time period of 2300 to 0700. However, the evening period may well be equally important to householders, particularly in warm summer months when they may wish to use gardens and open windows. Similarly the use of gardens at weekends and during daytime hours may be difficult if the noise from the garage is obtrusive. The use of a 2m fence on the boundary would no doubt help, but may itself be an intrusive and overbearing feature in gardens of only about 3.6m depth. This would result in a poor outlook from the houses.
8. Taking all these matters together it is my judgement that the use of this site for residential development would be incompatible with the commercial use to the east. Notwithstanding the mitigation proposed it would be likely to lead to unsatisfactory living conditions by reason of noise and disturbance as well as a poor outlook.
9. Saved Policy HO3 of the Stockton-on-Tees Local Plan is part of the development plan for the area. This policy has been cited by the Council in its reason for refusing planning permission. However, the policy has no specific reference to the living conditions of the occupants of the development being considered, instead referring to the amenity of adjacent land users. However, the policy does require development to be sympathetic to the character of the locality. The constrained nature of the site fails to be so and there is therefore some minor conflict with this policy.
10. Of greater importance, though, is the policy set out in the NPPF. There is an imperative in the NPPF to create high quality buildings and places which include a high standard of amenity for existing and future users. The proposed development clearly fails in this regard. As set out above a poor quality of amenity would be likely to result from the development. This would significantly and demonstrably outweigh any benefit from providing housing where there is currently no 5 year supply.

Other Matters

11. A number of other developments have been brought to my attention and are said to offer a direct parallel with this case. I do accept that amenity space is a personal matter, and that some people are content with small spaces, or no space. The small rear gardens here would not be a reason to dismiss the appeal if other matters were acceptable. However I cannot comment on these other developments as the circumstances under which they came about are not before me. I do not know, for example, the details of the case close to

Cleveland Garage, and whether any restrictive conditions operate at that site. I have considered this case on the basis of its particular circumstances as I am required to do. These other examples are therefore of limited assistance.

Conclusion

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

Philip Major

INSPECTOR