



# Appeal Decision

Site visit made on 10 January 2023

**by Hannah Ellison BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 3 February 2023**

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**Appeal Ref: APP/H0738/W/22/3308417**

**Land adjacent to The Poplars, Greens Lane, Stockton-on-Tees TS18 5HX**

- 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 Sean Brockbank against the decision of Stockton-on-Tees Borough Council.
  - The application Ref 21/2644/FUL, dated 24 September 2021, was refused by notice dated 24 June 2022.
  - The development proposed is the erection of detached dormer bungalow.
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## Decision

1. The appeal is dismissed.

## Applications for Costs

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

## Main Issues

3. The main issues are the effect of the proposal on a) the character and appearance of the area, b) protected trees, and c) the Teesmouth and Cleveland Coast Special Protection Area.

## Reasons

### *Character and Appearance*

4. The appeal site forms part of the rear garden of 1 Auckland Way. The properties on Auckland Way are readily apparent from the appeal site's frontage on Greens Lane due to their elevated positioning and long, sloping gardens. The street scene along this part of Greens Lane consists of set-back dwellings, gardens and open space. By virtue of these features, along with the wide highway, there is a verdant and spacious feel in the locality.
5. I note that the proposed development has sought to address concerns raised in a previous appeal decision<sup>1</sup> at the site; namely the design of the proposed dwelling and its relationship with the adjacent property known as The Poplars.
6. However, the proposed dwelling would be positioned towards one corner of the appeal site. It would be of a bungalow design, with low eaves height, and it would have an overall small footprint and mass. To take account of the sloped topography of the site, it has been designed to be a split level property, thus it

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<sup>1</sup> APP/H0738/W/20/3253736

- cuts into the site with the rear garden and that of No 1 rising behind it. This would be above the retaining wall which would be of a substantial height.
7. Trees to the front of the site and landscaping to the rear would remain, and a porous driveway and green retaining wall are proposed. These features would contribute towards the verdant character of the locality. However, the intrusive alterations to the land, which would be required to construct the dwelling within this constrained site, along with the awkward positioning and design of the built form, would be readily apparent and collectively cause the proposed development to appear cramped and contrived and the overall site to be overly engineered.
  8. This obtrusive development would be visually prominent in the public realm and there would be clear views from Greens Lane to the side and rear of the property up towards No 1. Thus, the development would have a strong visual connection with No 1 and it would be clearly distinguishable as garden development. This would be out of keeping with the prevailing pattern of development in the locality. The Poplars does not have the same relationship with built form to the rear given the less conspicuous positioning and siting of the adjacent dwellings. As such, it does not read as uncharacteristic garden development, unlike the appeal proposal. I am not convinced that a condition requiring boundary treatment would overcome all of the above concerns.
  9. I note that the vehicular access would cross the grass verge, however this arrangement would be similar to the several existing access points and driveways along this stretch of Greens Lane and thus would not in itself result in harm.
  10. Taking all the above into consideration, the proposal would harm the character and appearance of the area and thus would conflict with Policy SD8 of the Stockton-on-Tees Borough Council Local Plan (January 2019) (the LP) which seeks to ensure that developments take into consideration and respond positively to the context of the surrounding area. It would also conflict with the guidance on achieving well-designed places as set out in chapter 12 of the National Planning Policy Framework (the Framework).

#### *Protected Trees*

11. The evidence states that, along the Greens Lane frontage of the appeal site, there was previously a group of protected poplar trees. At the time of my site visit they had been felled, with four replacement trees planted. The replacement trees appear to be subject to a new tree protection order.
12. The Council are concerned that once the replacement trees become established and reach their expected height and canopy spread, very little light would reach the front room of the proposed dwelling and thus there would be future pressure for the removal of, or for significant works to, the trees to reduce their impact on the dwelling. I note that the close relationship between the trees and the proposed dwelling, along with the path of the sun, would restrict the amount of light reaching the front of the proposal.
13. However, the proposed dwelling has been designed to be split level. The windows on the front of the dwelling would serve a bedroom and hallway/stairs. The most affected room would be the front ground floor bedroom. However, given the nature of this room and its smaller size, I

consider that it would not be a main habitable room. Rather, future occupiers of the proposal would likely spend much of their time on the upper floor of the dwelling, which provides a combined kitchen/living/dining space. This would be served by a large amount of glazing providing light and an outlook towards the garden.

14. Therefore, given the arrangement of the proposed internal living space, this proposal would not place undue pressure on the replacement trees. Therefore, it would accord with Policies ENV5 and SD8 of LP which collectively seek to protect biodiversity and landscape character. It would also accord with paragraph 131 of the Framework which advises that existing trees should be retained.

#### *The Teesmouth and Cleveland Coast Special Protection Area*

15. The appeal site is within the catchment area of The Teesmouth and Cleveland Coasts Special Protection Area (the TCCSPA) and the Council has raised concerns that the proposal does not secure appropriate mitigation measures for the increased discharge of nitrogen. I note the appellants concerns regarding the lack of communication from the Council regarding this issue however this is not a matter for me within the context of this appeal.
16. As I have found that the proposed development would result in harm in other respects, which leads me to dismiss the appeal, there is no need for me, as the competent authority, to carry out an assessment on the likely significant effects of the proposal on the TCCSPA or explore the necessity for undertaking an Appropriate Assessment and secure mitigation where required. Even had I done so and found the proposal to be acceptable in this regard, such a finding would not have affected my overall conclusion on this appeal.
17. Therefore, it is also not necessary for me to explore the possibility of attaching conditions which restrict the occupancy of the dwelling, require further details to be submitted or prevent the development from being occupied until such details were agreed, or consider whether the appeal should be paused to address this matter further.

#### **Other Matters**

18. I have carefully considered the assertion that the proposed dwelling would provide semi-independent living accommodation for a family member who has particular medical needs and requires a social care package for support. I have therefore had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include disability.
19. I do not doubt that the proposed dwelling would allow a degree of independence in a safe and secure environment which would enhance the wellbeing of the family member and assist them with learning skills essential for a semi-independent life. However, I have not been provided with any conclusive evidence which indicates that the appeal proposal is the only feasible option of providing this type of accommodation and achieving these outcomes. I am not therefore persuaded that the existing dwelling could not be

adapted or extended, or that there are no other suitable sites or alternative arrangements that could meet the specific requirements of the family member.

20. It does not therefore follow from the PSED that the appeal should succeed and a refusal of planning permission is a proportionate and necessary response to the legitimate aim of protecting the character and appearance of an area.

### **Conclusion**

21. The benefits of the proposal in terms of investment and employment during construction, and economic benefits on subsequent occupation, would be limited due to the small scale of the proposal. Whilst the benefits to the family member would no doubt be significant, I afford them no more than moderate weight given the uncertainties with regard to other potential options.
22. The proposed development harms the character and appearance of the area, resulting in conflict with the development plan when considered as a whole. The material considerations do not outweigh the identified harm and associated development plan conflict. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

*H Ellison*  
INSPECTOR