
Appeal Decision

Site visit made on 14 February 2017

by I Jenkins BSc CEng MICE MCIWEM

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

Decision date: 22 March 2017

Appeal Ref: APP/X1355/W/16/3164690

The White House, Newcastle Road, Crossgate Moor, DH1 4HZ

- 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 F Stephenson against the decision of Durham County Council.
 - The application Ref DM/16/02170/FPA, dated 6 July 2016, was refused by notice dated 28 September 2016.
 - The development proposed is demolition of existing dormer bungalow and erection of one dwelling together with ancillary works.
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider that the main issues in this case are the effect of the proposal on: the living conditions of neighbouring residents, with particular reference to outlook, light and privacy; and, the character and appearance of the surrounding area.

Reasons

Living conditions

3. Langdale, Dunleigh, Braeside and Fairway comprise part of a row of properties that front onto the western side of Newcastle Road. Whilst Dunleigh is in commercial use, the others are dwellings. A driveway, which is flanked by Dunleigh to the south and the front garden of Langdale to the north, leads from Newcastle Road to the main section of the appeal site. This part of the site contains The White House, which is a dormer bungalow situated alongside the rear boundary of Dunleigh, and its substantial garden area, which adjoins: a side boundary of the rear garden of Langdale to the north; the rear boundary of Braeside to the east; and, a side boundary of the rear garden of Fairway to the south.
4. The appeal scheme involves the demolition of the existing dormer bungalow and the erection of a new dwelling within the garden area of the property. The proposal would comprise an L-shaped building. The main block, which would contain the majority of the habitable accommodation over 4 floors¹, would be positioned to the west of the footprint of the existing dormer bungalow and would run in a north/south direction across the site.

¹ Including a basement level and second floor accommodation partially in the roof space.

The secondary block, which would contain garages at ground floor level and habitable accommodation at first floor level, would project from the southern section of the main block in an easterly direction. The footprint of the existing building would be used as parking and turning space.

5. Policy H10 of the *City of Durham Local Plan, 2004* (LP) seeks to ensure that the amenities of existing dwellings are not adversely affected by backland development. LP Policy Q8 requires new development to minimise the impact of the proposal upon the occupants of existing nearby and adjacent properties. LP Policy H13 indicates that planning permission will not be granted for new development which would have a significant adverse effect on the amenities of occupants of residential areas.
6. The reasoned justification for LP Policy Q8 identifies a number of standards related to the distances between buildings. In the context of outlook, the Council has drawn attention to a standard that requires 13 metres between a window and a blank 2-storey gable. However, this is of little relevance in this case, as the sections of the proposed building closest to neighbouring properties would not comprise gable walls.
7. I saw that the western elevation of Braeside, which faces across its small rear garden towards an area of garden within the appeal site to the south of The White House, contains the main glazed openings serving the lounge/dining/kitchen area of the property at ground floor level and also the first floor bedroom/study area. I regard these parts of the property as areas of habitable accommodation; areas where residents of the property are likely to spend considerable periods of time. Whilst the first floor area is also served by a number of roof lights, in my judgement, they are of less value as regards outlook than the glazed openings in the rear wall of the dwelling.
8. As a result of the proposed development, the western elevation of Braeside would face directly towards the eastern elevation of the proposed secondary block, which would be almost as wide as the section of boundary shared with Braeside and would be set back from it by a short distance. That elevation of the proposal would comprise a 2-storey wall topped by a roof with a hipped profile. Although the hedgerow along the rear boundary of Braeside would screen part of the proposed secondary block from view from the ground floor of Braeside, the upper parts of it would be likely to be visible. Even more of the proposal would be visible from the Braeside's first floor bedroom/study area. Due to its close proximity, width and height, the secondary block would dominate the outlook from the habitable spaces within Braeside that I have identified, significantly reducing the sense of space enjoyed by residents of that neighbouring dwelling when using those areas.
9. The shared boundary between the rear garden of Langdale and the garden area of The White House is enclosed by a low hedgerow. In comparison with The White House, Langdale occupies a relatively narrow plot and consequently the outlook from its rear habitable room windows and from the garden area near to the back of the dwelling benefits considerably from the sense of space afforded by the lack of development to the rear of the White House.
10. The northern elevation of the proposed main block, which would face towards a section of the back garden of Langdale near to the back of that property, would comprise a sidewall topped by a pitched roof sloping away from the boundary. That sidewall, which would be set back from the shared boundary with

Langdale by a short distance, would be substantial. It would have an eaves level approximately equivalent to the ridge level of the roof of the proposed 2-storey secondary block. Due to its proximity, scale and massing, the proposed main block would be likely to greatly reduce the sense of space enjoyed by the residents of Langdale when using the habitable rooms served by windows in the rear elevation of their property, which include a lounge, dining room and a number of bedrooms, as well as the area of garden near to the back of the house. It would have a significant detrimental effect on their outlook.

11. I understand that the appellant has recently removed a number of trees which were situated close to the side boundary shared with Langdale and that, irrespective of the outcome of the appeal, he intends to plant mature trees and shrubs adjacent to that boundary in the future. However, there is no compelling evidence before me to show that the removed trees are likely to have dominated the outlook from that neighbouring property to the same extent as the proposed building. Based on the historic photographic evidence provided by the appellant, it appears unlikely. Furthermore, there is no guarantee that the planting proposed by the appellant could be quickly established and sustained, and even if it could, in my view, planting would be unlikely to have as harmful an impact on outlook as the substantial proposed building.
12. The northern side elevation of the proposed secondary block, whilst some distance from the neighbouring Fairway dwelling, would be situated close to a significant proportion of the northern boundary of its rear garden. As such, the 2-storey block would have a noticeable detrimental impact on the sense of space enjoyed by the residents of Fairway when using their garden.
13. I consider overall, that the proposal would have a significant detrimental effect on the outlook of neighbouring residents. I regard it as over dominant and unneighbourly. This weighs heavily against the scheme.
14. The proposed development would be likely to limit the amount of sunlight received by the rooms served by glazed openings in the western elevation of Braeside, due to its proximity, height and position of the proposed building to the west of this neighbouring property. However, the impact would be limited to a relatively short period of the day.
15. The sunlight modelling results provided by the appellant assume that the boundary planting he proposes would be quickly established to a significant height. Even if that could be done, the modelling results illustrate, as would be expected, that the planting would tend to filter the sunlight, rather than block it in the same way as the proposed building. Nonetheless, whilst the proposal would be likely to reduce the sunlight received by Langdale, the impact would be likely to be limited to a short period of the day and the part of the property most affected would be a relatively small proportion of the garden of the property.
16. I consider that whilst the proposal would be likely to have a noticeable detrimental effect on the light received by neighbouring properties, it would not amount to a significant impact and so I give it little weight.
17. The distance standards set out in the reasoned justification for LP Policy Q8 include a requirement for a 21 metre window to window separation distance.

Windows contained within the northern elevation of the proposed main block and the eastern elevation of the secondary block would allow overlooking of neighbouring windows over distances less than 21 metres as well as garden areas closest to the back of a number of dwellings not directly overlooked at present. As a result, they have the potential to have a significant detrimental effect on the privacy of neighbouring residents. However, this impact could be satisfactorily mitigated through the imposition of a condition requiring those proposed windows to be glazed with obscured glass and fixed shut. Although other proposed windows would allow overlooking of areas of neighbouring gardens further from the associated dwellings, they are already likely to be overlooked to some extent and so this would not be sufficient to justify withholding planning permission in this case. I consider that, subject to condition, the effect on the privacy of neighbouring residents would be acceptable.

18. Nonetheless, I conclude overall, that the proposal would be likely to have a significant detrimental effect on the living conditions of neighbouring residents, with particular reference to outlook. In this regard it would conflict with LP Policies H10, Q8 and H13. Insofar as these policies seek to secure the provision of a good standard of amenity for all existing and future occupants of land and buildings they are consistent with the aims of the *National Planning Policy Framework* (the Framework).
19. I have not been provided with a copy of the previous appeal decision ref. APP/X1355/A/14/2211956 referred to by the Council, regarding the application at a different site of the separation distance standards cited in the reasoned justification for LP Policy Q8. Nonetheless, based on the passages quoted, in my judgement, my approach is not inconsistent with that of my colleague.

Character and appearance

20. The surrounding area is characterised by a wide variety of dwelling sizes, designs and plot areas. I am also conscious that the Framework indicates planning decisions should not attempt to impose architectural styles or particular tastes through unsubstantiated requirements to conform to certain development forms or styles. Furthermore, the pattern of development along the western side of Newcastle Road is not limited to ribbon development. In addition to The White House, which occupies a backland position, the cul-de-sac of Neville Dene, which is located to the north of Langdale, extends built development further to the west than the position of the proposed building. In addition, the appellant has calculated that the density of development proposed, in terms of the proportion of the site which would be developed, would be lower than on a number of a number of neighbouring plots.
21. Against this background, I consider that although the proposed building would be architecturally different from its neighbours in a number of respects and would be sited in a backland position, it would not harm the character and appearance of the surrounding area. It would also be possible to ensure, through the imposition of conditions, that boundary planting would be retained and enhanced, in keeping with the aims of criteria (5) and (6) of LP Policy Q8 as well as LP Policies Q5, E14 and E15.

22. I conclude that the effect of the proposal on the character and appearance of the surrounding area would be acceptable and in this respect it would not conflict with LP Policies Q8, H10, H13, Q5, E14 and E15.

Other matters

23. The appellant has drawn attention to certain characteristics of a significant number of existing properties in the area. However, I have not been provided with any compelling evidence to show that the spatial relationship between them and their neighbours is directly comparable to the circumstances in the case before me. In any event, each case must be considered primarily on its own merits and, in my view, the existence of those other properties would not justify harmful development of the appeal site.
24. LP Policy H2 gives support in principle to housing development within Durham City. I also understand that the proposal would be more energy efficient than The White House, in keeping with the aims of criterion (8) of LP Policy Q8. Furthermore, I accept that the garden space retained by the proposal would be likely to be sufficient to meet the needs of future residents of the proposed dwelling, in accordance with criterion (3) of LP Policy Q8. However, whilst the proposal would increase the amount of accommodation within the site and in that sense makes more efficient use of the land, I have found that it would compromise the quality of the environment, with particular reference to the living conditions of neighbours, and so it would not comply with criterion (10) of LP Policy Q8.
25. The appeal site is in a location from which jobs, shops and services are likely to be reasonably accessible by modes of transport other than by car and in this respect it would gain some support from the Framework. However, although the Framework gives encouragement to the effective use of previously developed land, the private garden land on which the proposed building would be sited falls outside the definition of previously developed land set out in the Framework.
26. I have also had regard to the view of the appellant that a dwelling of the size proposed is necessary to meet his and his family's needs, with reference to, amongst other things, a gym and music room. However, in my judgement, the benefits of the scheme in those respects would not outweigh the harm that it would cause to the living conditions of the residents of neighbouring properties.
27. The Council's decision to refuse planning permission in this case was against the recommendation of its planning officer. Nevertheless, that does not alter the planning merits of the proposal upon which my decision is based. In my judgement, neither these, nor any other matters raised are sufficient to outweigh the considerations which have led to my conclusions on the main issues.

Conclusions

28. Notwithstanding my findings that the scheme would be acceptable in terms of its effect on the character and appearance of the surrounding area and in relation to a number of other matters, I conclude on balance that the benefits of the proposal would be significantly and demonstrably outweighed by the harm that it would cause to the living conditions of neighbouring residents. The appeal scheme would not amount to sustainable development under the

terms of the Framework. Furthermore, it would conflict with the Development Plan taken as a whole. For the reasons given above, I conclude that the appeal should be dismissed.

I Jenkins

INSPECTOR