
Appeal Decision

Site visit made on 29 January 2020

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 April 2020

Appeal Ref: APP/N1350/W/19/3235961

22 Westacres, Middleton St George DL2 1LJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Alan Agar against the decision of Darlington Borough Council.
 - The application Ref 18/01119/OUT, dated 29 November 2018, was refused by notice dated 3 June 2019.
 - The development proposed is a 2-bedroom detached dwelling with off-street parking for 2 vehicles.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline with details submitted for access and scale while matters concerning appearance, landscaping and layout are reserved for later determination.

Main Issues

3. The main issues are the effect of the development proposal:
 - On the character and appearance of the area;
 - On the trees to the rear of the appeal property; and
 - On the living conditions of occupants of No 10 Westacres.

Reasons

Character and appearance

4. The appeal site comprises a single storey L-shaped dwelling with a garage, front garden and back garden in an established residential area in the village of Middleton St George near Darlington. Westacres contains single and 2-storey detached dwellings with gardens to the front. 10 Westacres, a 2-storey detached dwelling, sits adjacent to the appeal property at a slightly lower level. Directly to the rear of the appeal property is the back garden of 9 Thorntree Villas which sits within Middleton One Row Conservation Area. A number of large, mature trees subject to a Tree Preservation Order (TPO) are within the garden of No 9 and close to the boundary of the appeal property. In addition, there is also quite a large tree close to the boundary of the appeal site within the front garden of No 10.

5. The development proposal comprises a 2-storey residential dwelling together with parking to the front and a garden to the rear. Whilst siting is amongst the matters reserved for future consideration the indicative material in support of the appeal shows the appellant's intention to locate the proposed house within the existing garden of No 22 and close to No 10. I have assessed the appeal with this in mind, in particular given that the options for siting a dwelling within the appeal site appear to be limited to this location in broad terms.
6. The proposal would project slightly forward of No 10 but not quite as far forward as No 22. To the front of the property would be a driveway capable of accommodating 2 vehicles. The gap between the side of the appeal dwelling and No 22 would be very narrow.
7. I was provided with a list of dwellings, together with their internal floor areas and the number of bedrooms, that are being built in the village by 2 housebuilders. I note that some have a floor area of around 60% that of the proposed dwelling. However, these developments have a different context to the proposal before me. Furthermore, although I was provided with links to the web sites containing details of the properties being marketed, I did not have any information concerning their planning histories. Consequently, I attach very little weight to this submission.
8. According to the indicative plans the ridge line would be no higher than No 10's. Nevertheless, given the relatively restricted size of the plot I consider that a 2-storey dwelling would look cramped and out of place. It would be very close to No 22 and close to No 10.
9. For the above reasons I find that the proposed development would harm the character and appearance of the area. It would therefore conflict with Policy CS2 of the Darlington Core Strategy 2011 (CS) which seeks to protect the character and appearance of the local area and its sense of place. In addition, it would fail to comply with advice set out in Paragraph 127 of the National Planning Policy Framework (the Framework) that the design of new development should be of a high quality that protects the character and appearance of the local area.

Neighbouring trees

10. The large trees within the grounds of No 9 Thorntree Villas form an impressive green backdrop to No 22 and the neighbouring dwellings when viewed from Westcares and so contribute positively to the character and appearance of the area. The Arboricultural Method Statement (AMS) submitted on behalf of the appellant identifies 3 trees within the grounds of No 9 (Nos 6, 7 and 8) as being subject to a TPO and close to the boundary of the appeal site. The AMS sets out guidance for tree protection during the construction phase of the proposed dwelling.
11. During my site visit I noted that at least 2 of the large trees within the grounds of No 9 appeared to overhang the area that would be incorporated into the rear garden of the proposed dwelling. Because of the limited amount of garden space within the proposed development it is likely that this overhang would impinge on the living conditions of future occupants. Consequently, I believe that there would be a significant likelihood of applications from future occupants to the Council to have the branches of the relevant trees lopped. Although the Council could seek to resist such proposals, I consider that given

the effect on light this might be difficult to sustain in practice. Such lopping would be likely to cause harm to the character and appearance of the area.

12. An unprotected tree in the front garden of No 10 Westacres contributes positively to the character and appearance of the neighbourhood by virtue of its size, shape and location. The root protection area would partially overlap with the indicative driveway. The use of a no-dig methodology for the construction of the driveway as recommended in the AMS would protect the roots and thus ensure retention of the tree. However, this approach would require the level of the driveway to be raised resulting in what I consider to be an unacceptable change in height over a short distance.
13. I note that the development would require the removal of 2 small trees and 2 hedgerows from the garden of No 22. However, I do not consider that they contribute significantly to the street scene and thus their removal would not cause harm to the character and appearance of the area.
14. For the reasons set out above I find that the development proposal would be likely to cause harm to the protected trees overhanging the rear of the appeal property to the detriment of the character and appearance of the area. This would fail to accord with Policies CS14 and CS16 of the CS and Policy E16 of the Borough of Darlington Local Plan 1997 which, respectively, require that new development protects natural resources, tree canopies and takes full account of trees on and adjacent to the site.

Living conditions

15. The indicative plans for the proposed dwelling show that it would project forward of the front of No 10 by around 2-3 metres. According to the indicative floor plans for the proposed development there would be no side windows at ground floor or first floor level overlooking the front garden of No 10. Moreover, there would be no principal windows facing each other.
16. By virtue of the sun's orientation there would also be no loss of light to No 10 except in the evenings at the height of summer. However, there would be a large expanse of bare wall almost immediately adjacent to the shared boundary. This would create an overbearing impression that would harm the living conditions of the occupants of No 10.
17. The floor plans indicate that there would be a large window at the rear of the first floor of the proposed dwelling. This would look over the rear garden of No 10. Although there is some foliage along the boundary to provide screening, I nevertheless find that because of the proximity the proposed development would cause a loss of privacy to the occupants of No 10 when using their back garden.
18. With regard to living conditions I have found no conflict with any development plan policies cited by the Council in its Decision Notice. Nevertheless, I find that by virtue of its effect on No 10 the proposed development would fail to accord with the advice set out in Paragraph 127 of the Framework that new development protects the living conditions of current and future occupants of neighbouring properties.

Other Matters

19. The appellant has contended that some local residents have engaged in a co-ordinated strategy to encourage others to submit objections to the application with the result that many have made similar points. Members of the public do have a right to co-ordinate their representations to an application as they see fit. However, for the avoidance of doubt, my decision has been based upon planning considerations and not upon the number of representations submitted.
20. One objector has contended that there is a restrictive covenant preventing development of the site for an additional dwelling. I was not presented with a copy of this document and, in any event, it is not a planning consideration.
21. I have considered the contents of the Contaminated Land Risk Assessment and note the conclusion that, on the evidence collected, there are no plausible pollutant linkages nor any significant uncertainties. This is a neutral factor that neither supports nor detracts from the proposal.
22. The commitment by the appellant to use local builders in the construction of the proposal is also noted. However, I attach little weight to this matter given the harm that I have identified.
23. Finally, I note that the appellant advances personal reasons in support of the proposal. I am sympathetic to his desires to construct a home with lower energy costs and to secure an income from the existing property to fund his retirement and possible social care. Nevertheless, I consider that he could secure these objectives by building elsewhere without causing the harm that I have identified above. Consequently, I give very little weight to these submissions.

Conclusion

24. For the reasons set out above the appeal is dismissed.

William Walton

INSPECTOR