



Appeal Decision

Site visit made on 4 August 2020

by M L Milliken BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2020

Appeal Ref: APP/H0724/W/20/3252289

Street Record, Milbank Close, Hart, Hartlepool TS27 3BT (Easting 447218, Northing 535026).

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Michael Seymour against the decision of Hartlepool Borough Council.
- The application Ref H/2019/0047, dated 4 February 2019, was approved on 13 November 2019 and planning permission was granted subject to conditions.
- The development permitted is Reserved Matters application (appearance, layout, scale and landscaping) in respect of outline planning application H/2025/0209 for the erection of 15 dwellings with associated infrastructure.
- The condition in dispute is No 4 which states that: "Prior to the commencement of development above ground level on any given plot, a scheme for the obscure glazing and, where considered necessary, restricted openings (max. 30 degrees) of the following proposed windows with respect to that plot (plot numbers as identified on plan 14_019_C_1202 REV. E (Planning Layout), received 30th August 2019 by the Local Planning Authority and as per individual plot details set out in condition 01) shall be first submitted to and approved in writing by the Local Planning Authority:

Plot 1: 1no. first floor en-suite window in east facing side elevation.

Plot 2: 1no. first floor en-suite window in west facing side elevation.

Plot 4: 1no. first floor en-suite window in south facing side elevation, 1no. second floor bedroom window in south facing side elevation, 1no. first floor bathroom window and 1no. en-suite window in north facing side elevation, 1no. second floor bedroom window in north facing side elevation.

Plot 5: 1no. first floor en-suite window in south facing side elevation, 1no. second floor dressing room window and 2no. en-suite roof lights in south facing side elevation.

Plot 6: 1no. first floor en-suite window in north facing side elevation.

Plot 7: 1no. first floor bathroom window in south facing side elevation, 2no. first floor en-suite windows in north facing side elevation, 1no. second floor bedroom window in north facing side elevation.

Plot 8: 1no. first floor en-suite window in east facing side elevation, 1no. second floor bedroom window in east facing side elevation. 1no. first floor bedroom roof light in south facing side elevation of annexe/above double garage.

Plot 9: 1no. first floor en-suite window in west facing side elevation, 1no. first floor bathroom window in east facing side elevation.

Plot 10: 1no. first floor bathroom window in west facing side elevation, 1no. first floor en-suite window in east facing side elevation.

Plot 11: 1no. first floor bathroom window in west facing side elevation, 1no. first floor en-suite window in east facing side elevation, 1no. second floor bedroom window in west facing side elevation, 1no. second floor bedroom window in east facing side elevation.

Plot 12: 1no. first floor bathroom window in north facing side elevation.

Plot 13: 1no. first floor bathroom window in south facing side elevation, 1no. second floor bedroom window in south facing side elevation, 2no. first floor home office roof lights in east facing rear elevation of annexe/above double garage.

Plot 14: 1no. first floor bathroom window in east facing side elevation.

Plot 15: 1no. first floor bedroom window in west facing side elevation, 2no. first floor bedroom windows, 1no. first floor en-suite window and 1no. first floor bathroom window in east facing side elevation. 1no. second floor bedroom window in west facing side elevation, 1no. second floor bedroom window in east facing side elevation.

The windows shall be glazed with obscure glass to a minimum of level 4 of the 'Pilkington' scale of obscuration or equivalent. Thereafter the windows shall be installed in accordance with the approved details and prior to the occupation of each respective plot and shall remain for the lifetime of the development hereby approved. The application of translucent film to the windows would not satisfy the requirements of this condition".

- The reason given for the condition is: "To prevent overlooking".
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Decision

1. The appeal is allowed and the approval of reserved matters Ref H/2019/0047 (appearance, layout, scale and landscaping) in respect of outline planning application H/2025/0209 for the erection of 15 dwellings with associated infrastructure at Rear of Milbank Close, Land at the Fens, Hart Village, Hartlepool, granted on 13 November 2019 by Hartlepool Borough Council, is varied by deleting condition No 4 and substituting it for the following condition:

Prior to the commencement of development above ground level on any given plot, a scheme for the obscure glazing and, where considered necessary, restricted openings (max. 30 degrees) of the following proposed windows with respect to that plot (plot numbers as identified on plan 14_019_C_1202 REV. E (Planning Layout), received 30th August 2019 by the Local Planning Authority and as per individual plot details set out in condition 01) shall be first submitted to and approved in writing by the Local Planning Authority:

Plot 1: 1no. first floor en-suite window in east facing side elevation.

Plot 2: 1no. first floor en-suite window in west facing side elevation.

Plot 4: 1no. first floor en-suite window in south facing side elevation, 1no. second floor bedroom window in south facing side elevation, 1no. first floor bathroom window and 1no. en-suite window in north facing side elevation, 1no. second floor bedroom window in north facing side elevation.

Plot 5: 1no. first floor en-suite window in south facing side elevation, 1no. second floor dressing room window and 2no. en-suite roof lights in south facing side elevation.

Plot 6: 1no. first floor en-suite window in north facing side elevation.

Plot 7: 1no. first floor bathroom window in south facing side elevation, 2no. first floor en-suite windows in north facing side elevation, 1no. second floor bedroom window in north facing side elevation.

Plot 8: 1no. first floor en- suite window in east facing side elevation, 1no. second floor bedroom window in east facing side elevation. 1no. first floor bedroom roof light in south facing side elevation of annexe/above double garage

Plot 9: 1no. first floor en-suite window in west facing side elevation, 1no. first floor bathroom window in east facing side elevation.

Plot 10: 1no. first floor bathroom window in west facing side elevation, 1no. first floor en-suite window in east facing side elevation.

Plot 11: 1no. first floor bathroom window in west facing side elevation, 1no. first floor en-suite window in east facing side elevation, 1no. second floor bedroom window in west facing side elevation.

Plot 12: 1no. first floor bathroom window in north facing side elevation.

Plot 13: 1no. first floor bathroom window in south facing side elevation, 1no. second floor bedroom window in south facing side elevation.

Plot 14: 1no. first floor bathroom window in east facing side elevation.

Plot 15: 1no. first floor bedroom window in west facing side elevation, 1no. first floor en- suite window and 1no. first floor bathroom window in east facing side elevation. 1no. second floor bedroom window in west facing side elevation.

The windows shall be glazed with obscure glass to a minimum of level 4 of the 'Pilkington' scale of obscuration or equivalent. Thereafter the windows shall be installed in accordance with the approved details and prior to the occupation of each respective plot and shall remain for the lifetime of the development hereby approved. The application of translucent film to the windows would not satisfy the requirements of this condition.

Procedural Matters

2. Since the application form as submitted was silent in relation to the description of the development, I have taken the details from the appeal form and the decision notice, as reflected in the banner.
3. For completeness, some minor adjustments have also been made to the address provided by the appellant on the application form, when compared with the Council's decision notice for the permission, as reflected in the decision. I am however satisfied that the adjustments made do not materially change the nature of the development as permitted.

Main Issue

4. The main issue is whether or not amending Condition No 4 of the approval of reserved matters, specifically regarding the requirement for obscure glazing and restricted opening of east facing habitable room windows, in relation to plots 11, 13 and 15, would result in acceptable living conditions for future residents, with particular regard to outlook.

Reasons

5. The appeal site is located adjacent to the existing village of Hart and is surrounded by agricultural land, existing residential development at Milbank Close, Manor Farm and The Fens, and a tree belt with the A179 Hart Bypass beyond.
6. I note that the Case Officer's delegated report for the reserved matters application refers to the fact that there are no sensitive land users to the immediate north or east of the site, and therefore no implications with respect to the amenity or privacy of neighbouring land users in these directions. However, the report goes on to state the need for a planning condition to secure details of obscure glazing and restricted opening of windows in order to prevent overlooking, and that such a condition would also seek to prevent any future development beyond the east of the site being constrained by the siting of such windows.
7. From the evidence before me, I note that both parties accept there are no formal development plans for the land in question, in terms of a planning application, permission or residential development allocation. It is noted that the land is outside the development limits of Hart Village and is designated as a Strategic Gap/Green Gap within both the Hartlepool Local Plan (adopted 2018) and the Hartlepool Rural Neighbourhood Plan (made 2019).
8. The inclusion of the land within the Council's Strategic Housing Land Availability Assessment (SHLAA) (2014) is noted, however such an inclusion does not in itself constitute robust evidence that the site is suitable for residential development, and I note the appellant's evidence in this regard, particularly in relation to the potential for archaeological finds to be present on the land in question, together with other potential constraints to development, including an existing watercourse.
9. Notwithstanding the above, from examination of the approved separation distances between the appeal site and the adjacent land, together with the number of windows that would be affected, I do not consider that removal of the requirement for obscure glazing and restricted opening of east facing habitable room windows in relation to plots 11, 13 and 15 would have an adverse effect on the living conditions of future residents. Whilst I have had regard to the Council's aim to safeguard the land for future development, the potential for overlooking in relation to the properties in question would be a matter for consideration in the design of any future proposal on the adjacent land, to be considered on its own merits and in the context of development plan policy at that time. Moreover, given the scale of the adjacent land, I consider that it is likely to afford reasonable scope and flexibility in this regard.
10. I therefore consider that the requirement for obscure glazing and restricted opening of east facing habitable room windows in relation to plots 11, 13 and

15 to be unnecessary and thus amending Condition No 4 of the approval for reserved matters would be acceptable. In coming to my decision I have had due regard to adopted Policy QP4 of the Hartlepool Local Plan (2018) which seeks to ensure, amongst other things, that developments should not negatively impact upon the relationship with existing and proposed neighbouring land uses and the amenity of occupiers of adjoining or nearby properties by way of overlooking and loss of privacy, and I have found no conflict in this regard.

11. For similar reasons, I also find no conflict with Policy GEN2 of the Hartlepool Rural Neighbourhood Plan (2018), which seeks to ensure that new developments are of a high quality design that respects local character.
12. The Council have provided me with an extract from the Hartlepool Residential Design SPD (adopted September 2019), in relation to privacy. For the reasons set out above, I also find no conflict with extract provided, which states that residents should be able to enjoy their home and should benefit from privacy and should not be unreasonably overlooked by neighbours.

Conclusion

13. For the reasons set out, I conclude that the appeal should be allowed. I shall vary the approval of reserved matters by deleting the disputed condition and replacing it to the effect of the Council's recommended modified Condition 4, as stated.

M L Milliken

INSPECTOR