



Appeal Decision

Site Visit made on 19 October 2021

by Mr Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2021

Appeal Ref: APP/V0728/W/21/3281300

7 Davison Street, Lingdale, TS12 3DU

- 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 Garry Holmes against the decision of Redcar and Cleveland Borough Council.
 - The application Ref R2020/0488/FF, dated 14 September 2020, was refused by notice dated 8 March 2021.
 - The development proposed is the erection of 2 no 2 storey terraced dwellings on land adjacent to No 7 Davison Street.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 no 2 storey terraced dwellings on land adjacent to No 7 Davison Street at 7 Davison Street, Lingdale, TS12 3DU in accordance with the terms of the application, Ref R2020/0488/FF, dated 14 September 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: AJR20:49 100 Proposed Floor Plans Elevations, dated Nov 2021; AJR20:49 02 Proposed Site Block and Location Plans.
 - 3) No construction of the external surfaces of the buildings here by approved shall take place until a sample panel of the materials to be used in the construction of the external surfaces shall have been prepared on site for inspection and approved in writing by the local planning authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond, pointing technique and palette of materials (including roofing, cladding and render) to be used in the development. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.
 - 4) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted

to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) measures to control the emission of dust and dirt during construction;
 - v) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - vi) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Preliminary Matters

2. The appellant has submitted amended plans¹, specifically showing alterations to the roof, changing the proposed gable end to a hip and lowering the ridge line to match that of the adjacent properties, and amendments to the fenestration to the front of the property.
3. The Procedural Guide: Planning Appeals – England² clearly advises that the appeal process should not be used to evolve a scheme and “if an applicant thinks that amending their application proposals will overcome the local planning authority’s reasons for refusal they should normally make a fresh planning application”.
4. The changes appear to be minor in nature but I am aware that the plans have not been subject to public consultation through the application process. With regards fairness and natural justice and having regard to the Wheatcroft³ principles, in light of the minor changes proposed I consider that the Council and other interested parties would not be prejudiced if I considered the amended plan. Thus, my findings relate to the scheme shown on the amended plans.

Main Issue

5. The main issue is the effect of the proposed development on the living conditions of the occupiers of Moordale Court, with particular regards to outlook.

¹ AJR20:49 100 Proposed Floor Plans Elevations, dated Nov 2021

² Procedural Guide: Planning Appeals – England (2019): Annexe M – Can a proposed scheme be amended?

³ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37].

Reasons

6. The appeal scheme proposes the erection of two dwellings on land to the side of 7 Davison Street currently occupied by a domestic yard and single storey brick-built garage. Therefore, with particular regards to the residents of Moordale Court, the appeal scheme would replace the existing single storey garage with two storey residential development.
7. The Officer's report refers to the Design of Residential Areas SPD and a recommended 13m separation distance for front or rear elevations to side elevations. The Council details that the side elevation of the proposed dwelling would be some 9.6m from the facing elevation of Moordale Court which includes a number of habitable rooms.
8. At the site visit I saw that the current view that the occupiers of Moor Court enjoy towards the appeal site is separated by an existing wide service road that provides access to a rear lane and car park and otherwise includes the single storey brick-built garage on the appeal site which is of a somewhat dilapidated appearance.
9. While the appeal scheme would create a two-storey structure in place of the existing single storey garage structure I am nonetheless satisfied that the separation distance on site is nonetheless sufficient, in combination with the amended plans, to protect the outlook of residents of Moor Court. This conclusion is supported by a letter of support from a resident of Moor Court.
10. As such I do not find that the appeal scheme would harm the living conditions of the occupiers of Moordale Court, with particular regards to outlook and is not therefore Contrary to Policy SD4 (b) of the Redcar and Cleveland Local Plan and the provisions of the Residential Areas Supplementary Planning Document.

Other Matters

11. The earlier designs of the appeal property, relating specifically to the roof and fenestration to the front elevation of the property were poor, failing to reflect the design characteristics of the adjoining properties. The National Planning Policy Framework Paragraph 134 clearly states that "Development that is not well designed should be refused". Nonetheless the amended plans submitted by the appellant have improved the appearance of the appeal scheme to reflect the design characteristics of the adjoining properties.

Conditions

12. I have not been provided with a list of suggested conditions. Therefore, within the guidance set out in the Planning Practice Guidance, I have used my planning judgement.
13. In the interests of clarity, I have included conditions to limit the life of the permission and to define the approved plans. In the interests of good design and to protect the character and appearance of the area I have included a condition requiring the approval of materials to be used in the construction of external walls.
14. In the interests of the environment, I have included a condition relating to unexpected contamination and, to protect the living conditions of the occupiers of adjacent properties, a condition relating to a Construction Management Plan.

Conclusion

15. For the reasons given above I conclude that the appeal should be allowed.

Mr Brooker

INSPECTOR

