The Planning Inspectorate

Appeal Decision

Site visit made on 28 October 2021

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 November 2021

Appeal Ref: APP/N1350/D/21/3283717
Mulberry House, 21C Roundhill Road, Hurworth DL2 2ED

- 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 Tim Jones against the decision of Darlington Borough Council.
- The application Ref 21/00516/FUL, dated 5 May 2021, was refused by notice dated 9 July 2021.
- The development proposed is the construction of a detached garage within domestic curtilage.

Decision

1. The appeal is allowed and planning permission is granted for Erection of detached double garage at Mulberry House, Hurworth DL2 2ED in accordance with the terms of the application, Ref 21/00516/FUL, dated 5 May 2021, 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: Site Location Plan;PR102 Garage Plans and Elevations; PR104C Existing and Proposed Site Levels.

   3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing dwelling on the site.

Applications for costs

2. The appellant has made an application for costs against Darlington Borough Council. this application is the subject of a separate decision.

Preliminary Matters

3. To support the appeal the appellant has submitted a Flood Risk Assessment[1] (FRA). The 'Procedural Guide – Planning Appeals – England' advises that if an applicant thinks that amending their proposals will overcome the local planning authority's reasons for refusal, they should normally make a fresh planning application. Constructive discussions with the Council, particularly in light of new evidence, can help to avoid the need to appeal.

4. Nonetheless, there is a degree of commonality between the evidence already submitted to the council and the FRA, on this basis I am satisfied that no party

[1] ROY LOBLEY CONSULTING Technical Note 01 dated 13/09/21 reference RLC/0864/TN01

would be prejudiced by the consideration of such evidence. In reaching this conclusion I have taken account of the Wheatcroft Principles.

Main Issue

5. The main issue is whether or not the appeal site is a suitable location for the proposed development with regards surface water flooding on the appeal site and elsewhere.

Reasons

6. Policy CS16 of the Core Strategy, amongst other matters, seeks to protect environmental resources and to reduce the impact of surface water flood risk and requires an assessment as appropriate to the type and extent of impact and associated risks.

7. The appeal scheme would introduce built development into an area that is at low risk from surface water flooding. The FRA acknowledges that the development would result in the "flow path of the surface water flooding being diverted around the garage".

8. Figure 3.1 of the FRA shows some diversion of surface water around the proposed garage, on the basis of the evidence before me it does not appear that the proposed development would result in increased flows towards either the front or rear elevation of the existing dwelling on the site and the general flow of surface water would continue through the site unchanged as a result of the proposed development.

9. The comments made by the Lead Local Flood Authority (LLFA), refers to the need for detailed modelling and the other factors that could affect the natural flow of surface water flooding. However, Policy CS16 specifically seeks an assessment appropriate to the extent of impact and associated risks. In this instance such impact and risk appear, on the basis of the evidence before me, to be limited and as such it is my planning judgement that the level of detail submitted is appropriate in this instance.

10. On the basis of the limited scale of the proposed development and in light of the evidence submitted by the appellant detailing the expected impacts, in this instance I am satisfied that the appeal scheme is a suitable location for the proposed development with regards the risk of surface water flooding on the appeal site and elsewhere. As such I find that appeal scheme is not contrary to Policy CS16 of the Core Strategy and the provisions of the National Planning Policy Framework.

Other Matters

11. Evidence has been provided by the appellant regarding the earlier consent for housing related to the appeal property and adjacent properties. I note that this development did not include the land upon which the appeal scheme would be developed. As such this prior consent, conditions and conclusions relating to surface water drainage/flooding while a material consideration is not determinative in this instance.

Conditions

12. In the interests of clarity, I have included conditions to control the life of the permission and the approved plans. In the interests of the character and

appearance of the area I have specified that the materials to be used in the exterior of the proposed building shall match those of the existing dwelling on the site.

Conclusion

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

Mr M Brooker

INSPECTOR