



Appeal Decision

Site visit made on 22 January 2022

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 February 2022

Appeal Ref: APP/X1355/W/21/3286266

15 The Pastures, Lanchester DH7 0BT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr David Hall against the decision of Durham County Council.
 - The application Ref DM/21/02516/RM, dated 12 July 2021, sought approval of details pursuant to condition No 01 of a planning permission Ref DM/16/00871/OUT as granted on 15 June 2017 under appeal Ref APP/X1355/W/16/3160472.
 - The development proposed is approval of reserved matters (appearance, landscaping, layout and scale) relating to planning permission DM/16/00871/OUT for plot 14.
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Decision

1. The appeal is allowed and reserved matters are approved for appearance, landscaping, layout and scale relating to Plot 14, pursuant to Condition No 1 attached to planning permission Ref DM/16/00971/OUT granted on 15 June 2017 under appeal Ref APP/X1355/W/16/3160472, and subject to the conditions set out in the attached Schedule.

Procedural Matters

2. The description of development in the banner heading above is taken from the appellant's appeal form and the Council's decision notice, rather than from the reserved matters application form, as it includes reference to plot 14.
3. Outline planning permission with access details were approved for residential development on the wider appeal site as part of a planning appeal on 15 June 2017¹. The subject appeal relates to plot 14. The principle of residential development on this plot has been established as a consequence of the aforementioned appeal decision. The subject appeal relates only to matters of appearance, landscaping, layout and scale.

Main Issues

4. The main issues are the effect of the development on (i) the character and appearance of the area with particular regard to scale and density and (ii) the living conditions of the occupiers of No 8 The Paddock in respect of outlook, light and privacy.

¹ Appeal Ref APP/X1355/W/16/3160472

Reasons

Character and appearance

5. The appeal site is located in a rural area on the edge of Lanchester. It is part of a wider development site for a development of 14 dwellings. Subsequent reserved matters and s73 applications have approved the subdivision of the site, and the extent of the individual plots including levels, along with common elements of the scheme including drainage, highways and landscaping.
6. While it is acknowledged that the appeal property would not be single storey, the evidence is that the Council has approved some multi-storey residential development on the wider site. I acknowledge the concerns raised by a number of third parties about anything more than single storey development being allowed on the plot and wider site, but the fact is that two storey development has been allowed already. Hence, and as was notable as part of my site visit, the overall character and appearance of the immediate locality has changed.
7. Furthermore, I am cognisant of comments made about covenants in place relating to not increasing the height of bungalows in The Paddock. However, there is nothing before me to suggest that there are any planning restrictions in place relating to the height of properties.
8. While I note the concerns raised by other interested parties about the scale of the appeal dwelling, I do not consider that plot 14 could only reasonably accommodate a single storey residential unit. In this case, while it could not be said that the proposed dwelling would be small, or indeed low in height, its overall scale and massing would be acceptable in the context of other nearby consented development on the wider appeal site. Indeed, to the onlooker it would not look out place, or dominant, when viewed against nearby approved development. In other words, the proposal would accord with policy LNP2 of the Lanchester Neighbourhood Plan 2019-2034 (NP) in so far that it would take its reference from other nearby consented development, and its scale and density would not depart significantly from approved development in close proximity to the appeal site.
9. The proposed dwelling would be set in from the side boundaries by about 2.45 metres and 2.62 metres respectively and would include a proportionate amount of outside garden/amenity space, in accordance with Council standards. I am therefore satisfied that the dwelling would not appear squeezed within its plot or be seen as a significant wide mass of development. Furthermore, there would be a consistency of design across the wider site particularly in terms of the use of materials.
10. It is of note that in terms of density, the proposal would be at the higher end of the scale when compared to other approved development. However, in respect of density it would not be too dissimilar to plot 12 and, furthermore, it would be possible to impose a condition that restricted the potential to extend the dwelling further by removing specified permitted development rights. On balance, and subject to imposing such a condition, I do not share the Council's view that the proposal would be unacceptable from a density point of view. In reaching this view, I note that some interested parties have commented that when outline planning permission was approved it was on the basis that the footprint of each dwelling would not exceed more than 25% of the plot.

However, no such restriction was imposed in respect of the outline planning permission and the previous Inspector did not raise this matter in his decision.

11. Concerns are raised about the effect of rear garden boundary treatment close to the site entrance. However, the proposal would provide a landscaping strip between the boundary treatment and the road entrance and so this part of the development proposal need not look out of place. This is a matter that could be controlled in detail by means of the imposition of a planning condition.
12. Overall, the proposed dwelling would assimilate well into the immediate residential environment and would not look out of place or incongruous in the context of recently approved and built development. While all of the properties on the wider site would not be identical in scale, design and massing terms, that in itself would not be harmful. The Council's design approach so far appears to be predicated on the basis of adding design interest through the use of varied scale, design and massing parameters, but ensuring a consistent approach to the use materials.
13. For the above reasons, and subject to the imposition of conditions, I conclude that the proposal would represent good design and would not cause harm to the character and appearance of the area. Therefore, it would accord with the design, character and appearance requirements of policy 29 of the County Durham Plan 2020; policy LNP2 of the NP and Chapter 12 of the National Planning Policy Framework (the Framework).

Living conditions – 8 The Paddock

14. No 8 The Paddock is a bungalow. It is positioned to the north west of the appeal site and shares a common boundary. It is acknowledged that the appeal dwelling would include more floors than No 8 The Paddock. However, the ground floor of the property would sit about 2 metres below that of the neighbouring bungalow. The multi-storey element of the rear of the appeal dwelling would be positioned just over about 9.0 metres from the shared boundary with the neighbouring bungalow. Taking these matters into account, coupled with the softening impact afforded by the existing boundary vegetation, and the angled orientation of the bungalow, I do not find that the proposal would have a dominating or enclosing impact when viewed from No 8 The Paddock. I accept that the appeal property would be visible from No 8 The Paddock, but that does not automatically mean that it would lead to unacceptable outlook.
15. First floor rear windows in the appeal property would be approximately 30.5 metres from the rear windows of No 8 The Paddock, and the nearest single storey part of the dwelling would be about 27.7 metres from the neighbouring bungalow. The separation distances exceed the minimum 21 metre separation distance standard in the Council's Residential Amenity Standards SPD 2020 (SPD). I recognise that No 8 The Paddock is not currently overlooked at all. However, taking into account the aforementioned separation distances, I am satisfied that the extent of any overlooking would not be significantly adverse or give rise to a material loss of privacy.
16. The two storey element of the proposal would be set back by over some 9.0 metres from the garden/boundary with No 8 The Paddock. The appeal dwelling is located to the south-east of the bungalow. The garden area of No 8 The Paddock is already impacted, to a degree, by a reduction in light penetration

owing to the location of boundary trees. In this context, coupled with the separation distances involved, I do not find that the proposal would lead a material loss of light to the garden area or windows of No 8 The Paddock.

17. For the above reasons, I conclude that the proposal would not cause material harm to the living conditions of the occupiers of No 8 The Paddock in respect of outlook, light or privacy. Consequently, the development would accord with the amenity requirements of policies 29 and 31 of the County Durham Plan 2020; the SPD and paragraph 130(f) of the Framework.

Other Matters

18. Concerns are raised in respect of how protected trees would be appreciated and viewed given the height of the proposed dwelling. It is accepted that views of the trees would to an extent be impacted although the wider site has outline planning permission for housing and so the principle of how the trees would be appreciated and viewed has, from a land use principle point of view, already been considered by the previous Inspector. In this case, I do not consider that it would be reasonable to withhold planning permission owing to some loss of view of the protected trees arising from the height and scale of the appeal dwelling.
19. In respect of matters relating to surface water and foul drainage, the outline planning permission already deals with this issue in respect of condition Nos 5 and 6. Outline planning permissions and reserved matters consents should be read together and that includes all imposed conditions.
20. Some residents, including the occupiers of No 8 The Paddock, make the claim that there would be a breach of Human Rights. I have found that the proposal would accord with development plan policies for the area. I do not find that the proposal would breach rights under Articles 1 and 8 of the European Convention on Human Rights.
21. The Highway Authority initially raised concern about the proposal in respect of car parking. However, the evidence is that the objection was removed following the consideration of an amended plan showing three driveway car parking spaces and two car parking spaces in the garage. Subject to the consideration of this amended plan, I have no reason to disagree with the Highway Authority.
22. In respect of the effect of the development on the living conditions of the occupiers of other existing surrounding residential properties, it is of note that the appeal dwelling would more than exceed the separation distance standards as laid out in the Council's SPD. I am satisfied that the proposal would not cause material harm to the living conditions of the occupiers of any existing property in respect of light, outlook, privacy or outlook.

Conditions

23. Reserved matters consent is approved subject to the standard two year time limit condition. It is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. I have therefore imposed a condition to this effect.
24. In the interests of the character and appearance of the area, it is necessary to impose conditions relating to means of enclosure, materials and landscaping. I have slightly amended the latter suggested condition in so far that it does not

include a requirement to include '*habitat creation areas*'. It is not clear what this means and, in any event, there is no clear justification for providing this on the appeal site.

25. In the interests of ensuring adequate on-site car parking provision to maintain the safe operation of the highway, it is necessary to include a condition requiring the provision and retention of three car parking spaces. In addition, and to assist in the sustainable drainage of the site, it is necessary to impose a condition requiring the vehicular hard surface areas to be of permeable construction.
26. In the interests of the character and appearance of the area, and to safeguard the living conditions of the occupiers of neighbouring residential development, there is clear justification for the removal of specified permitted development rights.

Conclusion

27. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

D Hartley

INSPECTOR

Schedule of Conditions

1. The development must be begun not later than the expiration of two years from the final approval of the reserved matters.
 2. The development hereby approved shall be carried out in strict accordance with the following approved plans: 1:1250 red edged site location plan; 1:100 'Elevations' Plan dated 6 July 2021; 1:50 'Plans and Section' Plan dated 6 July 2021, and 'Site / Roof Plan' Revision A Plan dated 6 July 2021.
 3. Notwithstanding any details of materials submitted with the application no development shall commence until details of the make, colour and texture of all walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
 4. Prior to the first occupation the development hereby approved, details of all means of enclosure and retaining structures of the site shall be submitted to and approved in writing by the Local Planning Authority. These shall be constructed in accordance with the approved details and thereafter retained as approved.
 5. Before the dwelling hereby approved is occupied, a plan to show the provision of three external parking spaces must be submitted to and agreed in writing by the Local Planning Authority. The car parking spaces shall thereafter be implemented in full and retained.
 6. The vehicular hard-surfacing areas hereby approved must be built of a permeable construction and thereafter permanently retained as such.
 7. No development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall include accurate plan-based details of the following:
 - Details of landscaping including planting species, sizes, layout, densities, numbers.
 - Details of planting procedures or specification.
 - Finished topsoil levels and depths.
 - Seeded or turf areas and details of land and surface drainage.
 - The establishment maintenance regime, including watering, rabbit protection, tree stakes and guards.
- The detailed landscaping scheme must include a schedule for the implementation of the works tied to the erection of the approved dwelling. The Local Planning Authority shall be notified in advance of the start on-site date and the completion date of all external works. The approved landscaping scheme must be implemented in full, within the agreed timeframe. Trees, hedges and shrubs planted as part of an approved scheme shall not be removed without agreement within five years of their planting, with any specimens that fail within the first five years shall be replaced to the agreed specification within the first available planting season.
8. Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B, E, F, Part 2, and Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) details of

any enlargement, improvement or other alteration to the dwelling hereby approved and any buildings, and boundary markers within and around the curtilage of the dwelling house shall be first submitted to and approved by the Local Planning Authority.

- End of Conditions -