



Appeal Decision

Site visit made on 28 February 2022

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 April 2022

Appeal Ref: APP/X1355/W/21/3289286

17 High Hamsterley Road, Hamsterley Mill NE39 1HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Miss Nicola Garrington against Durham County Council.
 - The application Ref DM/21/02881/FPA, is dated 19 July 2021.
 - The development proposed is erection of dwelling.
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Decision

1. The appeal is dismissed and planning permission is refused.

Applications for costs

2. An application for an award of costs was made by Miss Nicola Garrington against Durham County Council. This application is the subject of a separate Decision.

Procedural Matters

3. Durham County Council adopted the County Durham Plan (CDP) in 2020, after the Council's refusal of a previous application for planning permission for a dwelling at 17 High Hamsterley Road but prior to the determination of the subsequent planning appeal. The changing development plan policy context in the time between the submission of the previous planning application and the current appeal proposal is addressed by both parties in their submissions. I have determined the appeal on the basis of the development plan currently in place which, it should also be noted, formed the development plan context in which the previous appeal¹ was determined.

Background and Main Issue

4. An appeal concerning a previous scheme at No. 17 was dismissed in February 2021¹. The Inspector concluded in that instance that the proposal would cause harm to living conditions of future occupiers of the proposed dwelling but that the site's location and access to public transport meant that it was a moderately sustainable location and that it would not cause harm to trees or tree roots. The benefits of the proposal as identified by the Inspector were outweighed by the harm arising to living conditions of future occupiers.
5. This appeal relates to the Council's failure to give notice within the prescribed period of a decision on an application for planning permission. The application seeks to address the reasons for the dismissal of the previous appeal. Had the Council determined the application, its Statement of Case states that the

¹ APP/X1355/W/20/3264324

positioning and layout of the proposed development 'is not considered appropriate backland development as it would harm the spacious character and design ethos of the estate'.

6. Thus, having regard to the above, the main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

7. The site lies within the pleasant residential setting of the Hamsterley Mill estate. There is not a consistent architectural approach to the design of the dwellings within the estate, but the estate is typically characterised by large, detached dwellings mostly set within large and spacious residential garden plots. The network of roads within the estate are typically narrow but with generous and well-maintained grass verges alongside. The large houses are spaciouly sited within well-stocked residential garden plots, many with substantial hedge, shrub and tree planting to their roadside frontages. Together, these features imbue the estate with an overriding sense of being a pleasingly neat, spacious and verdant residential setting within a wider, sylvan landscape.
8. The appeal site is comprised of a partially fenced-off portion of a larger residential garden plot associated with 17 High Hamsterley Road. Although the site lacks the lengthy rear gardens of properties elsewhere within the estate, it is possible when looking beyond the existing plot sub-division that it was equally spacious and generally in keeping with the prevailing character and form.
9. The interior of the appeal site was, at the time of my visit and in the wake of recent storm events, largely clear of trees. There was evidence of tree stumps in places and the remains of wind-blown trees on higher ground within the site towards its southern boundary with the B6310. Despite this, the site remains largely secluded from public views from within the estate. Although visible through roadside vegetation from the road beyond to the rear, the site is no more visible or prominent from here than others within the estate that back on to the B6310.
10. There is no one single defining architectural style within the Hamsterley Mill estate. Indeed, this eclecticism is one of the key contributors to the pleasant charm of the estate. The proposed split-level bungalow would not therefore appear out of keeping in this varied company, even if it would be somewhat bland in its overall appearance and detailing.
11. Nevertheless, the proposed dwelling's siting would be at odds with the prevailing built form and layout of the estate and, thus, its spacious character. Backland and tandem developments are not, having walked around the estate and considered the submitted location plans showing the estate's layout, particularly evident or common features of the estate. There are occasional examples, highlighted by the appellant, of subdivided plots, of houses-behind-houses and of driveways accessing hidden plots, but these strike me as being the exceptions that prove the rule.
12. The proposed dwelling's garden plot, and the remaining garden area associated with No 17, would be noticeably smaller than those of many within the estate. I accept that the garden plots of some properties immediately adjoining the

appeal site are small in comparison to some, and therefore bear more resemblance in terms of size to the resulting garden plots in this instance, but they are very much the exception to the rule.

13. However, the proposal would insert a new dwelling into a constrained site in a manner not typical of the Hamsterley Mill estate as a whole. Its significant physical presence, notwithstanding it being only a bungalow, within an area of rear gardens largely devoid of such large built structures would be incongruous and erode the prevailing, spacious setting and character of the estate.
14. The appellant correctly identifies that glimpsed views of the appeal site are possible from the B6310 to the rear of the site. Similarly, glimpsed views of the extensive rear gardens of neighbouring properties, as well as those of the modest garden area of No. 17, are also possible from the road and from the elevated embankment of the former railway line (and now a footpath). However, glimpsed views are all that are offered. More significantly, because of the expanse of the garden plots and absence of significant built structures within them, these glimpses reinforce the sense of the Hamsterley Mill estate as a spacious, verdant and sylvan setting. The proposal would fail to reflect the prevailing character and appearance of the estate with a location and setting incongruous within its surroundings.
15. Nor should visibility from the B6310 be used as a means to justify the proposal. As with the Inspector's conclusions in another previous appeal case², the residential development on the opposite side of the B6310 has a character distinct from and separate to that of the Hamsterley Mill estate. Nor have I been presented with any compelling evidence to suggest that the existing property at No. 17 was designed or laid out to face onto the B6310. The visibility of houses there from the B6310 does not amount to justification for the proposed form, scale or character of that sought by the appeal scheme.
16. For these reasons, the siting and layout of the proposed dwelling within a subdivided part of the residential garden plot of No. 17 would fail to respect the prevailing character, layout and form of the Hamsterley Mill estate, contrary to CDP Policy 6(d). CDP Policies 29 and 39 require development proposals to achieve well designed buildings and places which contribute positively to, amongst other things, an area's character and townscape and avoid unacceptable harm to the character, quality or distinctiveness of the landscape, respectively. The proposed development would therefore fail to accord with Policies 29 and 30 of the CDP. Taking these factors together, the proposed development would amount to inappropriate backland development of the sort that CDP 6(b) seeks to resist.

Other Matters

17. I am mindful of the outcome of a previous planning appeal² for a proposed dwelling at the appeal site. I have also noted the appellant's concerns regarding consistency in decision making between that scheme and the present appeal scheme given the main issues identified in that case and the Council's putative refusal reason in the current instance. However, whilst that decision is capable of being a material consideration, it is clear from the Inspector's consideration of the main issues in that instance that the evidence before me now raises some materially different issues to those previously considered.

² APP/V1315/A/06/2024774

18. Matters of design and the proposal's effect on the character and appearance of the surrounding area were considered in the appellant's Planning Statement submitted to accompany the current proposal and were duly considered by the Council within their Statement of Case. In accordance with section 79 of the Act, on appeal under section 78 the application may be dealt with as if made to the Secretary of State in the first instance.
19. I have set out above the harm that I consider would arise to the character and appearance of the surrounding area from the proposed development. With regard to the main issues identified by the Inspector in respect of the previous appeal scheme, I note that these matters are no longer disputed between the main parties and did not form part of the Council's putative refusal reason. The absence of harm in these respects are neutral factors and weigh neither in support of nor against the proposal.
20. I note too that neighbours and local residents object to the proposal on a number on a wider basis than that set out in the Council's putative reason for refusal. These include the setting of a precedent, highway safety and the erection of the fence which sub-divides the garden plot. As I have already found harm in respect of character and appearance, and these matters did not form part of the Council's putative reason for refusal and are not disputed between the main parties it is not necessary for me to consider these matters further in the context of the current appeal.

Planning Balance and Conclusion

21. I am mindful of the conclusions reached by the previous Inspector and the putative reason for refusal set out in this instance by the Council. It is noted therefore that there is no longer any dispute between the two main parties regarding the site's location and accessibility, the effect upon trees and the effect of trees upon the living conditions of future occupiers of the proposed dwelling. The site's accessibility, and thus the contribution that an additional dwelling would make on economic and social grounds, is a factor which weighs in support of the proposal, albeit only to a limited degree commensurate with the limited quantum of development.
22. The absence of identified harm in respect of the proposal's impact on trees and upon living conditions of existing and future occupiers of surrounding properties and the neutral are neutral factors which weigh neither in support of, nor against the proposal. These neutral factors, together with the limited support the proposal would garner from its relatively accessible location, are not sufficient to outweigh the harm to the character and appearance of the surrounding area that would arise from the proposed development.
23. For the reasons set out therefore, and having considered all other matters raised, I conclude that the appeal should be dismissed and planning permission be refused.

G Robbie

INSPECTOR