



Appeal Decision

Site visit made on 20 August 2024

by K L Robbie (BA Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 September 2024

Appeal Ref: APP/X1355/W/24/3341859

Land to the rear and adjacent to 23 Station Road, Blackhall Rocks, Durham TS27 4AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Alex Marin of Hillside Developments against the decision of Durham County Council.
 - The application reference is DM/22/03039/FPA.
 - The development proposed is the demolition of existing domestic detached garage and redevelopment of a brownfield site with 4no. detached houses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) in December 2023. Subsequently, a consultation draft for a revised Framework has been published, whilst this may be a material consideration in the determination of the appeal it does not change the planning policy context in respect of the main issues, and I have determined the appeal accordingly. For the avoidance of doubt, I shall refer to section and paragraph numbers in the December 2023 version of the Framework where necessary.

Main Issues

3. The main issues are whether the proposed development would:
 - Provide adequate living conditions for future occupiers with particular regard to the provision of outdoor amenity space; and
 - Provide adequate living conditions for future occupiers and the effect of the development on the living conditions of the occupiers of neighbouring properties with particular regard to outlook and privacy.

Reasons

4. The appeal site comprises a broadly wedge-shaped parcel of vacant land to the rear of properties on Station Road. The site slopes steeply upwards from the point of entry adjacent to 23 Station Road. It lies in an established residential area of modestly sized semi-detached bungalows facing Station Road, and modern two storey detached dwellings to the rear on The Sidings. Four detached bungalows are proposed.

Living Conditions – outdoor amenity space provision

5. Private amenity space provided for each dwelling would be small. For plots one and four it would be particularly meagre. The proximity of high fences on the boundary with properties on The Sidings, surrounding vegetation and the configuration and orientation of the proposed dwellings would mean that gardens of three of the proposed dwellings would likely be in shade for considerable parts of the day. This represents an unacceptably inadequate level and quality of amenity space for the size and type of dwellings proposed, which would be compounded by poor outlooks from the rear of the properties onto high perimeter fences at close quarters.
6. The Council's Residential Amenity Standards Supplementary Planning Document 2023 (SPD) sets out expected standards of amenity for residential development. With regard to the provision of garden space the expectation is that private garden space should be appropriately sized having regard to the size of the dwelling and the character of the area. The length of gardens should be no less than 9m from the rear elevation to the rear boundary. In this instance only one plot achieves this at its longest point, and other plots are considerably shorter. Whilst the guidance acknowledges that there may be circumstances where alternative solutions may be necessary, I have not been presented with any such considerations which would justify such a reduction in the case before me.
7. Therefore, the proposal demonstrates an unacceptably inadequate level and quality of amenity space for the size and type of dwellings proposed. This would be compounded by poor outlooks from the rear of the properties onto high perimeter fences at close quarters.
8. Consequently, the proposed development would not provide appropriate living conditions for future occupiers with regard to the provision of amenity space. The proposal would therefore be contrary to Policies 6, 29 and 31 of the County Durham Plan (CDP), and Chapter 12 of the Framework, which amongst other things, seek to ensure that new development is of high quality and provides a high standard of amenity for existing and future users. There would also be conflict with the SPD which sets out expectations for the provision of gardens in new residential developments.

Living Conditions – outlook and privacy

9. A significant change in levels, solid boundary treatments and intervening garden buildings in many of the gardens of properties on Station Road means that the proposed dwellings would not be overlooked by occupiers of properties on Station Road. Neither would the occupiers of the proposed dwellings be able to overlook the occupiers of the properties on Station Road.
10. Nevertheless, the rear elevation of two storey properties on The Sidings would be approximately 15 metres from the nearest rear elevation of the proposed dwellings. They would be obliquely positioned in relation to them and therefore direct overlooking of living accommodation in the proposed dwellings would be unlikely. Close boarded fences would prevent overlooking between the properties at ground floor. Although there may be some overlooking of the gardens of the proposed dwellings from rear first floor windows of properties on The Sidings this would not be so severe as to be materially harmful.

11. Consequently, I find that the proposal would not harm the living conditions of either the occupiers of the proposed dwelling nor the existing occupiers of properties on either Station Road or The Sidings. There would therefore be no conflict with CDP Policies 6, 29 and 31 or Chapter 12 of the Framework, which amongst other things, seek to ensure that new development is of high quality and provides a high standard of amenity for existing and future users.

Other Matters

12. My attention has been drawn to a previous permission for two storey dwellings on the site, which has now lapsed. I do not have the details of that scheme before me. However, I note that the permission was granted in the context of a previous development plan. I therefore place little weight on this decision and it does not persuade me to come to an alternative conclusion on the main issues above.
13. It has also been drawn to my attention that the appeal site is located within the coastal zone of influence of the Durham Coast Special Area of Conservation, afforded protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations) where developers are required to make a financial contribution to mitigate the increased recreational pressure from the proposed development.
14. Nevertheless, the Regulations require that permission may only be granted after having ascertained that the development would not affect the integrity of a designated habitat. As I have found that the proposal is unacceptable for other reasons it has not been necessary to pursue this matter further.

Conclusion

15. The proposal would provide an additional four units of accommodation. This would amount to a small contribution to housing supply locally. There would be some economic benefit from occupiers of the dwellings supporting facilities and services in the area and whilst there would also be some economic benefit from construction employment, it would be short-lived. The harm that I have found on the main issue would not be outweighed by these benefits.
16. Although I have found no harm to living conditions with regard to overlooking and privacy, I have found that the proposal would provide insufficient outdoor amenity space for future occupiers of the proposed development. Therefore, for the reasons given above, I conclude that the proposal conflicts with the development plan when read as a whole and having taken all other matters in into consideration, the appeal should be dismissed.

K L Robbie

INSPECTOR