



Appeal Decision

Site visit made on 17 September 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 8 October 2024

Appeal Ref: APP/H0738/W/24/3347182

93 Bishopton Road, Stockton-on-Tees TS18 4PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Shaide Iqbal against Stockton-on-Tees Borough Council.
 - The application Ref is 23/2109/RET.
 - The development proposed is new dwelling.
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Decision

1. The appeal is dismissed and planning permission for proposed new dwelling is refused.

Preliminary Matters

2. Planning permission has been granted previously¹ for first floor and side extensions at No 93, Bishopton Road, (No 93), which was originally a bungalow. However, this was demolished. A retrospective application was submitted for a two-storey house, which is the subject of this appeal. This has partially been constructed. However, as I saw from the condition of the site and the storage of building materials, work has now ceased.

Background and Main Issues

3. The appeal is against the failure of the Council to determine the planning application. The Council's officer report has produced two putative reasons for refusal. Yet, their appeal statement considers that the impact on the visual amenity of the area as a result of proposed materials should also be a main issue. However, limited substantive evidence is provided and the statement concludes that there are no concerns regarding the design of the proposal. The proposed materials are discussed later in this statement. Therefore, from the putative reasons for refusal I consider that the main issues are:
 - whether the proposed development would provide acceptable living conditions for future occupiers with regard to the provision of private amenity space; and
 - the effect of the proposal on the living conditions of the occupiers of Hazelbrook with particular reference to privacy.

¹ Ref 18/1093/FUL; Ref 21/3079/FUL; Ref 23/1650/REV

Reasons

Living conditions of future occupiers

4. The appeal site is a corner plot on the junction of Allendale Road with Bishopton Road. It is in a residential area of traditional housing with wide streets and generous front gardens. The site has wooden fencing along the boundaries, with hedging along Allendale Road. Two trees in the front garden, T59, an oak and T60, a sycamore, are protected by a Tree Preservation Order².
5. The proposed house, which has been partially built, reputedly covers a similar footprint to previous permissions. However, there is limited evidence to enable a comparison of the position of the original bungalow, with that of the proposed house. Notwithstanding this, the proposed house is located 1.3 metres further towards the rear of the plot. This would reduce the garden space at the rear.
6. This rear area includes the existing and proposed vehicular access from Allendale Road. I saw that once the drive is constructed, there would only be a small strip of land to the rear of the house. The Councils Local Design Guide Supplementary Planning Document, 2023, (SPD) refers to the need for private amenity space being of an adequate size, shape and orientation to maximise useability.
7. As the building would have single storey side extensions, there would be very limited space either side of the house. Additionally, as it is a corner plot, the one metre boundary fence along the front and most of the boundary along Allendale Road would mean that the front garden of the house would be very open. Therefore, the only private garden space would be at the rear. However, placed between the rear of the house and the driveway, it would appear cramped and would not be adequate in size. Moreover, the opening for the driveway would also reduce the privacy of the garden area at the rear. As a four-bedroom family home, the limited private garden space would not be acceptable.
8. Therefore, I conclude that the lack of private amenity space would harm the future occupiers of the proposed house. It would not comply with Stockton-on-Tees Borough Council Local Plan, 2019, (LP) Policy SD8 which requires new development to be designed to the highest possible standard taking into account the need to respond positively to the privacy and amenity of future occupiers.

Living conditions of occupiers of Hazelbrook

9. Hazelbrook is a small, single storey property on Allendale Road, to the rear of the appeal site. The existing garage at No 93 is built along the boundary between the two properties. Close to this and facing the rear of the proposed house is the side elevation of Hazelbrook. This has three windows, one of which is a kitchen window.

² Tree Preservation Order No 38, 1983, Bishopton Road, Stockton-on-Tees

10. The SPD advises that in order to ensure privacy and amenity between dwellings there should be a separation distance of 11 metres between habitable room windows and elevations without habitable room windows. The Council states that there would be 8.9 metres between the rear of the proposal and Hazelbrook. This has not been disputed by the appellant. On the 1st floor of the proposed house there are two bedroom windows, as well as two bathroom windows. As the bedroom windows are located so close to the side elevation of Hazelbrook, they would look directly into the kitchen window.
11. Hazelbrook has a small back garden. The submitted evidence includes a photograph taken from here of the partially constructed rear elevation of the proposal. This shows that the height and position of the proposed two storey dwelling would be overbearing on the bungalow at Hazelbrook. Moreover, the close distance between the 1st floor windows on the rear elevation of the proposal and Hazelbrook, would result in overlooking. In particular, the eastern bedroom window would be able to see into the rear garden of Hazelbrook which is their private garden space. This would, therefore, cause substantial harm to the privacy of the occupiers of the property.
12. I therefore conclude that the proposed development would harm the living conditions of the occupiers of Hazelbrook with particular regard to privacy. It would not comply with LP Policy SD8 which requires new development to be appropriately laid out to ensure adequate separation between buildings and to respond positively to the privacy and amenity of existing occupiers of land and buildings. Furthermore, it would not accord with paragraph 135 of the National Planning Policy Framework which requires developments to create places with a high standard of amenity for existing and future users.

Other Matters

13. The proposal seeks a two-storey house, larger than the original dormer style dwelling on the site, with an attached garage to the side. The appellant considers that the design, massing and form of the building would be much better suited to the site than the demolished building which they regard as being incongruous in this location. Furthermore, the appellant contends that reusing the building, as originally proposed, would have affected the energy performance and aesthetics of the building.
14. However, the officer report and third parties have referred to the construction of the building in a buff brick. This contrasts with the reddish brick which is the predominant building material in the vicinity. The Council has suggested that to not harm the visual amenity of the site, the proposed development could be rendered, as found on the original bungalow and on other buildings in the area. I saw that the brick did not conform to the building materials that characterise the local area, resulting in it being more prominent, particularly on this corner site. The appellant has not commented on the proposed use of render, however, as I am dismissing the appeal for other reasons, I do not need to consider this further.
15. The appellant has provided a timeline summarising the correspondence and actions between them and the Council during the development of their future family home. It is acknowledged that this has been a lengthy process, complicated by changes to the construction of the building as the original foundations of the bungalow would not support the first floor. This does not, however, affect my determination of this appeal.

16. The delays to the build have, therefore, caused the appellant additional expense and inconvenienced neighbouring properties. The appellant has concerns about entering the site to tidy it, as this has previously been reported to the Council. They also refer to the lack of communication from the Council regarding progress. This is, however, a matter between the parties and does not affect my consideration of this appeal.

Conclusion

17. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and associated development plan conflict.
18. For the reasons given above, I conclude that the appeal is dismissed.

M J Francis

INSPECTOR