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## Appeal Decision

Site visit made on 31 March 2011

**by Malcolm Rivett BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 April 2011

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**Appeal Ref: APP/N1350/A/11/2144465**

**63 Middleton Lane, Middleton St George, Darlington, DL2 1AD**

- 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 JK Construction against the decision of Darlington Borough Council.
  - The application Ref 10/00733/FUL, dated 26 October 2010, was refused by notice dated 22 December 2010.
  - The development proposed is modification of planning permission 08/00216/FUL (granted on appeal APP/N1350/A/08/2079609 dated 17 November 2008 for the erection of 2 no detached dwelling houses with associated garaging, parking and access) to permit alterations to door and window positions on the side and front elevations.
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### Decision

1. I allow the appeal, and grant planning permission for modification of planning permission 08/00216/FUL (granted on appeal APP/N1350/A/08/2079609 dated 17 November 2008 for the erection of 2 no detached dwelling houses with associated garaging, parking and access) to permit alterations to door and window positions on the side and front elevations at 63 Middleton Lane, Middleton St George, Darlington, DL2 1AD in accordance with the terms of the application, Ref 10/00733/FUL, dated 26 October 2010, subject to the following condition:
  - 1) By no later than 6 months from the date of this decision the windows serving the south facing, first floor bathroom of the plot 2 dwelling shall be fitted with obscure glazing and shall have their opening physically restricted to their upper parts only, in accordance with precise details previously submitted to, and approved in writing by, the Local Planning Authority. Thereafter the windows shall be permanently retained in accordance with the approved details.

### Main Issue

2. The main issue is the effect of the proposed first floor windows on the southern elevation of the building on the living conditions of the occupants of 3 and 4 Cedar Grove, having particular regard to privacy.

### Reasons

3. At the time of my visit the appeal property was under construction and the openings for the first floor, south facing bathroom windows (proposed as part of the appeal scheme) were in place. An obscured glazed fully opening casement window was in position in one of the openings whilst the other was boarded over.

4. Given the distance of these openings from the rear windows of 3 and 4 Cedar Grove I envisage that, whatever the form of window inserted in them, no significant loss of privacy to the neighbouring residents would be caused when inside their homes. However, a much closer view of the rear gardens of nos 3 and 4 is possible from the openings and I consider that, if the form of window in the openings were to be unrestricted, there would be the potential for an unacceptable loss of privacy for the occupants of nos 3 and 4 when in their gardens. This would be likely to cause significant harm to their living conditions.
5. However, obscure glazing, which could be required by condition, would remove the potential for any significant loss of privacy when the windows were closed. Moreover, I am satisfied that the opening of the windows could be physically restricted to their upper parts such that, short of standing on a step ladder or the like, users of the bathroom would not be able to overlook the adjoining properties. I note that the appellant has not objected to the Council's suggested condition which would restrict opening of the windows to their top halves only. However, I consider that a slightly reworded condition is necessary to reflect the fact that the acceptable extent of opening (in terms of protecting the neighbours' privacy) depends on the precise opening form of the windows (eg sash or transom), which at this stage is unknown.
6. Consequently, subject to a condition as indicated above, I conclude that the appeal scheme would be unlikely to cause any significant loss of privacy for, or harm to the living conditions of, neighbouring residents and thus it accords with the requirements of policy H12 of the adopted *Borough of Darlington Local Plan* that alterations to dwellings maintain adequate privacy in the rooms and gardens of nearby buildings. The Council also refers to the requirement of policy H12 that alterations to dwellings are not overbearing when viewed from neighbouring properties and I am satisfied that the proposed bathroom windows would not be so. I also consider that they would not have a significant effect on light pollution in the area, given that permission already exists for a window to serve the bathroom and bearing in mind the number of existing dwelling windows in the vicinity.
7. The Council has raised no objections to the other elements of the appeal scheme and I see no reason to disagree with its stance. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed.

*Malcolm Rivett*

INSPECTOR