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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/10/2141776**

**22 Friars Pardon, Hurworth, Darlington, County Durham, DL2 2DZ**

- 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 Mr Lee Puchala against the decision of Darlington Borough Council.
  - The application Ref 10/00159/FUL, dated 8 March 2010, was refused by notice dated 4 June 2010.
  - The development proposed is new dwelling on land adjacent to 22 Friars Pardon.
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### Decision

1. I dismiss the appeal.

### Main Issues

2. The main issues are the effect of the proposal on (i) the character and appearance of the street scene and (ii) the living conditions of the occupants of 20 Friars Pardon, having particular regard to outlook.

### Reasons

3. I recognise that the proposed dwelling would be higher than the bungalows comprising the row nos 2 - 20 Friars Pardon. However, it would be set back from these dwellings behind the road's turning head and would be barely visible until one reached the end of the cul-de-sac. Therefore, I consider that the property would be not 'read' as a continuation of this row and would be seen within the context of the more varied forms of dwelling at the western end of the street (including the taller dormer bungalows opposite) with which it would be in keeping. Consequently, I conclude that the development would cause no significant harm to the character or appearance of the Friars Pardon street scene and that it thus accords with the requirement of policy H11 of the adopted *Borough of Darlington Local Plan* that new housing development should relate well to the surrounding area and respect its predominant character.
4. Although it would project around 7m beyond the rear of no 20, the plans indicate that the proposed dwelling would not obstruct a notional line at 45 degrees from the nearest existing window of no 20. On this basis I am satisfied that no significant harm to the outlook from no 20, as existing, would be caused. However, although I have seen no plans or details of it, I understand that planning permission has recently been granted for an extension of no 20 towards the appeal site. The Council's Committee Report identifies that the appeal scheme would conflict with the "45 degree rule" in respect of this

extension and would restrict the outlook from its bedroom window. On the evidence before me I am unable to determine the precise extent of this effect and whether or not it would cause significant harm to the living conditions of no 20's occupants. However, I note that the appellant does not argue that the outlook from the extension would not be unacceptably harmed by the appeal proposal. I consider that it would be inappropriate to grant permission for the appeal development when I cannot be assured that it would not cause significant harm to the living conditions of no 20's occupants, should their extension be built. Accordance of the scheme with policy H11's requirement that development does not damage the amenities of adjoining properties is therefore in doubt.

5. I note that Council officers considered that little weight should be given to this matter because it is unknown if, or when, the extension will be constructed. This is partly true, although it is almost certain that the extension permission has been time limited by condition (most likely to three years) and so it would not indefinitely stifle other development in the area if not constructed within the conditioned period. I also understand that permission was granted, at appeal in July 2010, for a new dwelling on the site of the current proposal although I have not seen the plans of this particular scheme either and thus cannot assess its likely effect on the outlook from no 20's extension in comparison with the development now before me. Nor do I know if the Inspector who determined the previous appeal was made aware of the proposed extension, although I note that there is no reference to it in his decision. Consequently, I consider the existing permission for a new dwelling is not good reason to allow the current proposal.
6. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Malcolm Rivett*

INSPECTOR