



Appeal Decision

Site visit made on 30 March 2009

by **N R Taylor** BSc CEng MICE MIHT

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
5 May 2009

Appeal Ref: APP/N1350/A/09/2094017

Green Gables, 36 Carmel Road South, Darlington, County Durham DL3 8DJ

- 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 A Ward against the decision of Darlington Borough Council.
- The application Ref 08/00596/FUL, dated 14 July 2008, was refused by notice dated 5 September 2008.
- The development proposed is a new dwelling beside Green Gables with associated new garage and access off existing driveway.

Decision

1. I dismiss the appeal.

Main issues

2. The main issues are: -
 - i. the likely impact on the character of the surrounding area and Area of High Landscape Value by reason of position, scale and siting;
 - ii. the likely impact on living conditions at Green Gables and No 12 Blackwell Scar by reason of loss of openness, outlook and overbearing;
 - iii. the likely impact on trees within the site protected under the Borough of Darlington Tree Preservation (No 11) Order 1982; and
 - iv. the likely impact on local wildlife.

Reasons

3. The appeal site is located within the garden of Green Gables, a substantial two-storey Arts and Crafts style detached dwelling situated on the west side of Carmel Road South. It adjoins residential sites to the north and south, one of these being No 12 Blackwell Scar which is located to the south of the appeal site. The site borders agricultural land to the west and part of the site includes an escarpment to the distant River Tees.
4. Green Gables has extensive gardens to the rear and side. The effect of the development would be to provide a new three-storey dwelling within these gardens to the south and west of the existing dwelling with access from the existing driveway. This driveway would be extended as far as the proposed new dwelling.

Likely impact on the surrounding area

5. In terms of the likely impact on the surrounding area and Area of High Landscape Value, the location of the proposed dwelling is separated from this Area by a band of mature trees and hedges and although it would sit at the top of the escarpment, and thereby potentially in a prominent position, it would be set back some significant distance from the Area. At the time of my visit, the trees were not in leaf but nevertheless gave significant screening to the Area. It is my opinion that given the density of the planting and the size of the trees together with the distance from the Area, the development would not have a significant impact on the Area of High Landscape Value.
6. Local Plan Policy E8 includes a statement that development on the edges of built-up areas within and adjacent to the Area of High Landscape Value will be permitted if it is of a high standard of design reflecting the scale and traditional character of buildings in the area and does not detract from the high landscape quality. The proposed dwelling would replicate the features of the existing dwelling on the site and it is my opinion that the development would therefore reflect the scale and tradition of buildings in the area and would not as a consequence conflict with this Policy.
7. In terms of the surrounding area, Local Plan Policy E3 seeks to maintain the open land system. However the explanatory note defines open land in this context as land of amenity, sports, recreation and or nature conservation value within the urban area. I can find no evidence to indicate that the garden to Green Gables falls within this definition. I conclude therefore that the development would not conflict with Policy E3.

Likely impact on No 12 Blackwell Scar and Green Gables

8. The rear elevation of No 12 Blackwell Scar faces directly on to the appeal site and is separated by a hedge of varying height in which there are a few taller trees. The proposed dwelling would be located with its nearer elevation some 14.5 metres from this elevation. There would be no windows in the upper floors of this part of the building, and this would result in there being a significant extent of blank wall rising to almost 3 stories in height directly in front of an appreciable part of the rear elevation of No 12. It is my view that the limited height of the boundary hedge and other vegetation would have little effect in screening a building of the size and at the distance proposed. In addition, the development would be a little taller than No 12 and I have formed the opinion that because of its bulk, design and location it would have a significant overbearing impact on No 12 Blackwell Scar. The rear of No 12 currently looks out towards the garden of Green Gables and although there is some limited screening due to the boundary vegetation, the development would nevertheless appreciably obscure this view and it is my opinion that the introduction of a building of the scale proposed would result in a significant loss of openness at No 12.
9. In respect of Green Gables, the development would be situated well to the rear and to the side of the property. It would therefore have the effect of limiting the view from the windows in the rear elevation which face towards the Area of High Landscape Value and would impact on the open aspect of the views of the rear garden. As a consequence I consider that the development would result in

a significant loss of openness and outlook at Green Gables. However the development would not be directly in line of vision from Green Gables and although it would be larger in footprint than the existing dwelling, in view of the location and distance from Green Gables, I do not consider that it would result in there being significant overbearing of this property.

10. It is my conclusion that the development would therefore conflict with Local Plan Policies E29 which includes the requirement that new development should respect the intrinsic character of its townscape setting in terms of its siting and design, and the protection of existing townscape features, including gardens which contribute to the character of the setting. It would also conflict with Policy H11 which includes a statement that the design and layout of new housing development will be required to relate well to the surrounding area, respect its predominant character and density, and avoid damage to the amenities of adjoining properties.
11. The development would require the provision of a new access to run from the existing access to Green Gables through part of the garden to the latter dwelling and significantly closer to No 12 Blackwell Scar than the existing access. It is my view that this would inevitably lead to conflict with the privacy and quiet enjoyment of these dwellings. I conclude therefore that the proposal would additionally conflict with Policy H13 which includes the statement that permission will not be granted for residential backland development which unacceptably conflicts with the privacy and quiet enjoyment of neighbouring dwellings and gardens in general, and of dwellings which adjoin any proposed accessway in particular.

Likely impact on trees within the Tree Preservation Order

12. The proposal as submitted at the application stage would have an adverse impact on the long term health and vitality of the trees which are included in the Borough of Darlington Tree Preservation (No 11) Order 1982. Following the refusal of the application, a revised layout for the driveway, shown on drawing 08142/8, has been prepared as a consequence of an arboricultural assessment and method statement. This development would involve the lifting of the crowns to seven trees and the removal of two trees which are subject to the order. These latter two trees are said to be in a diseased condition and I note the appellant's view that this is considered to be acceptable. However there is no evidence that the trees are an immediate safety concern and in my view their presence makes an important contribution to the character of the garden. Their removal would therefore have a significant impact on the character and appearance of the garden to Green Gables. Consequently I conclude that the development would conflict with Policy E12 which seeks to ensure that the layout and design of the development should wherever possible avoid the need to remove trees and hedgerows and provide for their successful retention and protection during development.

The likely impact on local wildlife

13. An ecological survey indicates that there is no evidence that the site is used by badgers, otters, water voles or great crested newts, and that there is no suitable habitat for the latter three species. There is a possibility that some trees could be suitable for bat roosting and that typical garden birds could be

expected to utilise the trees, shrubs and hedging. However I also note that mitigation measures could be taken to avoid potential impact. It is my conclusion that ecological concerns would not justify the dismissal of the appeal on these grounds. I do not therefore consider that the development would conflict with local Plan Policies E21 or E23.

Overall conclusion

14. Although I have found no significant harm in respect of the surrounding area, the Area of High Landscape Value or the local wildlife, I have found significant harm to living conditions at No 12 Blackwell Scar and Green Gables by reason of loss of openness and outlook, and of overbearing at No 12 Blackwell Scar. I also conclude that the proposal would result in significant harm to a number of the trees which are within the site protected under the Borough of Darlington Tree Preservation (No 11) Order 1982. As a consequence the development would conflict with Local Plan Policies E29, H11, H13 and E12. I note the view that the development would comply with other Policies, however neither this nor the benefits of the development justify the harm I have identified and I consider therefore that the appeal should fail.
15. For the reasons given above I conclude that the appeal should be dismissed.

NR Taylor

INSPECTOR