

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 5 June 2013

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APPLICATION REF. NO:	13/00156/FUL
STATUTORY DECISION DATE:	20 May 2013
WARD/PARISH:	HUMMERSKNOTT
LOCATION:	9A Tees Grange Avenue
DESCRIPTION:	Erection of a building to form annexe (revised application)
APPLICANT:	MR S G EDWARDS

APPLICATION AND SITE DESCRIPTION

Planning permission is sought for the erection of a single storey building within the curtilage of the application property to form an annexe, to be occupied by a family member in connection with the main dwelling. The proposed building is to be built on the site of an existing detached garage to the north of the application property, which will be demolished. It will be L-shaped and is to measure approximately 7.5 metres wide increasing to 9.9 metres at its northern end and will be approximately 10 metres deep. It is to be constructed of brick with stone detailing to the front elevation under a hipped tiled roof, 4 metres in height at ridge level. It will provide two bedrooms, a bathroom, kitchen/diner and lounge. The submitted plans show that there will be sufficient space for the parking of 5 no. vehicles to the front of the existing property.

A draft Section 106 Agreement has been submitted with the application which covenants that the building will be used solely as an annexe to the main dwelling and will not be used as a separate dwelling.

The application site comprises a detached single storey dwelling and detached garage located on a roughly triangular parcel of land in a backland location to the south of Tees Grange Avenue. Planning permission was granted for the erection of the bungalow and garage in March 1986 (86/00057/MISC). Vehicular access to the property is gained off Tees Grange Avenue and the property is bounded by residential properties on Tees Grange Avenue to the north, on Lauriston Close to the west and on West View to the east. Two trees, protected by Tree Preservation Order (No. 8) 1984 are located to the front of the property but are unaffected by the proposed development.

PLANNING HISTORY

75/00418/TF – Consent to the felling of one tree. REFUSED 6 AUGUST 1975

77/00084/TF – Pruning of beech tree. GRANTED 30 MARCH 1977

86/00057/MISC – Erection of a bungalow and domestic garage. GRANTED 26 MARCH 1986

92/00290/MISC – Felling of chestnut tree protected by Tree Preservation (No. 8) Order 1984. REFUSED 2 JULY 1992

00/00321/FUL – Single storey extension to provide garden room, utility room and kitchen alterations. GRANTED 30 JUNE 2000

00/00416/TF – Application to fell a chestnut tree included in Darlington (Hummersknott Estate) Interim Preservation Order 1945 and the Borough of Darlington Tree Preservation Order (No. 8) 1984. WITHDRAWN 25 JULY 2000

12/00401/FUL – Erection of building to form annexe (as amended by plans received on 15 August 2012). WITHDRAWN 7 DECEMBER 2012

PLANNING POLICY BACKGROUND

The following saved policy of the Borough of Darlington Local Plan 1997 is relevant to consideration of the application:

- H12 – Alterations and Extensions to Existing Dwellings

RESULTS OF CONSULTATION AND PUBLICITY

Highway Engineer – There is sufficient in curtilage parking to serve the development and the access onto the highway is unaffected therefore I would raise no highway objection to the proposal.

Four letters of objection have been received which raise the following issues:

- *There are major discrepancies in the plans that have been presented on the existing and proposed site plans which were raised in my letter of objection to the previous application;*
- *No attempt has been made by the applicant to correct these errors and the Borough Council has been presented with false information which may affect the outcome of the application.*
- *Some of the individual property shapes and dimensions on the plans appear to be ten years out of date and no attempt has been made to update them to the changes that have occurred over this period. This includes a rear conservatory approved in 2004 at 1 Lauriston Close which has been erected;*
- *This omission cannot be over emphasised because the Darlington Borough Council 'Design of New Development Supplementary Planning Document' stipulates a minimum acceptable separation distance of 21 metres from habitable room to habitable room to safeguard the amenity enjoyed by adjacent dwellings where the dwellings contain habitable rooms. Accordingly development which results in a back to back separation distance of less than 21 metres should not be considered acceptable;*
- *When the existing and proposed site plans are considered, the back to back separation distance between 1 Lauriston Close and the applicants proposed dwelling is 17 metres to*

meet the SPD requirement and the proposed building should be moved a further 4 metres to the east away from the Lauriston Close property;

- *In addition to this I also raise objection to the detached building being regarded as an annexe. It is very clearly a two bedroom detached property whose building line is completely separated from the main building. The applicant has said that the electricity and gas supply will be provided from the main building but attaching a piece of wire and gas tubing between two buildings does not transform one of them into an annexe. Once services are disconnected, the proposed dwelling is completely detached in every aspect and available for sale to the detriment of the surrounding properties;*
- *The overall scale of the built form is considered to result in an incongruous form of development out of keeping with the existing residential properties in the locality and results in the enclosure of existing private gardens creating oppressed and unneighbourly spaces. Such a cramped infill dwelling in this location would not normally be acceptable;*
- *The proposed outbuilding is considered to be overly large and unacceptably close to neighbouring dwellings, particularly for use as habitable accommodation. Considered the proposal fails to safeguard the amenity of surrounding residential properties and would result in a loss of privacy, the perception of overlooking, noise and disturbance and overbearing and unneighbourly impacts on 1 Lauriston Close and the surrounding neighbouring dwellings;*
- *The plans show that what is being proposed is a separate self-contained dwelling and so dispute the proposed development description. It includes a master bedroom, with ensuite, a further bedroom and kitchen, bathroom, lounge and dining area. It could not therefore be considered as either subservient or subordinate to the main dwelling. There are no functional or physical links to the main dwelling such as would be expected of an annexe, where for example it would be expected for the resident of the annexe to take most of their family meals in the main house;*
- *Overall the proposed facilities which provide all the accommodation necessary to provide a separate residence, not an annexe, and it is clear from the design that it is intended for a separate household, effectively becoming backland development;*
- *The Council would need to add conditions to ensure the use remains annexed to the main dwelling and does not become severed from the planning unit. The imposition of a condition preventing the sale of the development as a separate unit would not prevent it being put to use by a separate family and used as such. Given the degree of separation between the old and new dwellings proposed, conditions relation to use would be clearly unenforceable. As such the use of the annexe cannot be controlled by condition and should either be refused or the applicant instructed to reapply for a separate dwelling;*
- *The plans show the proposed development to have the lounge and kitchen being adjacent to my property and taking into account the 2m difference in floor levels then the SPD recommends a separation distance between habitable rooms of 25 metres. The lounge at the rear of my property is an extension which has been omitted from the application plans and this room has large patio windows. The distance from this lounge to the boundary fence is 9.6m, suggesting the proposed development should be over 15m back from the fence line within the plot of 9A. The minimum separation distance given in the SPD between habitable and non-habitable rooms is 16.5m taking into account the level difference and on this point alone the proposed property should be at least 7m from the fence within the boundary of plot 9A;*
- *The application is contrary to the NPPF as it is not of a high quality of design and does not protect the amenity of my home and is out of keeping with the character of the area. More specifically the NPPF also states that local authorities should resist inappropriate*

development of residential gardens where development would cause harm to the local area. This application is clearly contrary to that instruction;

- *The proposed development goes against the objectives of Core Strategy Policies CS2 and CS14 because of the poor design and relationship to existing buildings and the pattern of development in the neighbourhood. Whilst Tees Grange Avenue is not an area of historic or landscape significance it does have a distinctive character and strong sense of place that should be protected;*
- *The proposal also fails the tests of Saved Local Plan Policies H12 (Alterations and Extensions to Existing Dwellings) and H13 (Backland Development);*
- *The area surrounding the application site is characterised by its spaciousness, with architect designed homes on large plots with plenty of room between houses, particularly to the front and rear. This proposal is contrary to that pattern of development and seeks to squeeze an additional property into a backland setting. The building proposed is small, cramped between the main house and my back garden and is of a utilitarian design;*
- *The proposed dwelling will replace the existing garage that runs along about 50% of my rear garden boundary and will instead run along nearly the entire boundary. This would dominate the back of my garden and views out of my own extension. The plans show considerable hedging between my property and the application site but this is incorrect;*
- *At present I do not have living accommodation in direct proximity to my house; the existing house at 9A Tees Grange Avenue is set back and viewed obliquely;*
- *What is presently a seldom used corner of the large garden at 9A, tucked behind a garage will become the main back garden area of the new dwelling, introducing activity behind my rear wall. While I doubt I will be able to see them, I will hear their conversations and they will be able to overhear conversations in my own garden. This loss of amenity is contrary to both Policies H12 and H13;*
- *Looking at the proposed site the proposed dwelling is just 15 metres from my house. The site is substantially higher than my garden and windows in the proposed property will overlook my garden. I understand that there should be at least 21 metres plus (floor difference of about 1 metre) making the distance requirement from my property to be 23 metres. It appears to be about 8 metres too close.*

PLANNING ISSUES

The main issues to be considered are whether the erection of the proposed single storey building to be used as annexe accommodation in connection with the main dwelling are acceptable in terms of the following matters:

Planning Policy
Visual and Residential Amenity
Highway Safety

Planning Policy

The application proposes to erect a single storey building for use as a residential annexe to be occupied by a family member in connection with the main dwelling at 9A Tees Grange Avenue. The applicant has submitted a draft Section 106 Agreement with the application which covenants that the building will be occupied solely as an annexe in connection with the main dwelling and will not be used as a separate dwelling. In view of the backland location of the site, the close relationship of the proposed annexe to the main dwelling and the shared access and parking arrangements, the proposed annexe would not be suitable for use as a separate unit

of accommodation and would be contrary to planning policies relating to the location of new dwellings within the urban area. Given this element of control it is considered that the principal of an annexe in this location is acceptable, subject to consideration of other matters of development management.

A number of objections have been received relating to the proposed building being capable of being used as a separate dwelling due to its size and type of accommodation provided. These objections consider that the proposal should therefore be assessed against Policy H13 (Backland Development) and the requirements of the Design of New Development Supplementary Planning Document (Design SPD) specifically relating to the separation distances between existing and proposed dwellings. However the application clearly states that the proposal is for a residential annexe and as such, consideration of the application falls to be assessed against Saved Policy H12 (Alterations and Extensions to Existing Dwellings) of the Borough of Darlington Local Plan 1997. Other matters raised by the objectors relating to residential and visual amenity will be considered in more detail elsewhere in the report.

Visual and Residential Amenity

Saved Policy H12 (Alterations and Extensions to Existing Dwellings) of the Borough of Darlington Local Plan 1997 is a criteria based policy which seeks to ensure that new development within the curtilage of an existing dwelling is both in keeping with the character and appearance of the dwelling itself and that of the surrounding streetscene and that it maintains the living conditions of surrounding properties in terms of light, privacy and outlook.

The proposed building is to be built on the site of an existing detached garage, adjacent to the northern site boundary. It is to be built of brick and tile with stone detailing to the front (east facing) elevation of the building, under a low-profile, hipped tiled roof. The design of the proposed building is considered to be consistent with that of the host dwelling and in this respect is considered to be in keeping with the character and appearance of the dwelling.

Objections have been raised regarding the impact of the proposal, resulting in a cramped form of development, at odds with the character and appearance of the surrounding area. The annexe will replace an existing detached garage, albeit on a larger footprint, to the north of the existing dwelling. While the typical built form surrounding the site is of dwellings fronting the street, with garages to the side and relatively undeveloped garden areas to the rear, this property is different in that it occupies a larger, backland site. Given its backland location, bounded by existing residential properties along all three of the site's boundaries neither the existing dwelling nor the proposed annexe will be readily visible from public view outside of the site such that it would be difficult to argue that the proposal will have an unacceptable visual impact on the character and appearance of the surrounding area.

Saved Policy H12 also requires that proposed development maintains the living conditions of surrounding properties in terms of light, privacy and outlook. The proposed building is to be located adjacent to the northern boundary of the application site, replacing an existing detached garage, in close proximity to the dwelling immediately to the north at 17 Tees Grange Avenue. Objections to the proposal have been received from the occupants of this property and from the occupants of 19 Tees Grange Avenue, 1 Lauriston Close and 2 Lauriston Close which share boundaries with the application site to its north-west and western sides respectively. These objections are all concerned by the close proximity of the proposed annexe to their properties together with the impact the proposal will have in terms of loss of privacy due to overlooking and increased activity concentrated in this part of the application site, together with loss of outlook. Although the objections all refer to the separation distances set out in the Design of

New Development SPD these relate only to proposals for new dwellings, to ensure that appropriate levels of privacy and outlook can be achieved both for existing and proposed dwellings. As has been considered elsewhere in this report, the proposal is not for a new dwelling and therefore stands to be assessed against Saved Policy H12 which makes appropriate provision for these matters to be taken into account in determining such applications.

The proposed building is to be located adjacent to the northern boundary of the application site, set in approximately 0.75 metre off the boundary with 17 Tees Grange Avenue with the northern elevation of the annexe being approximately 9.9 metres in length adjacent to this boundary. The two properties are separated by an existing close boarded timber fence directly behind the existing garage and a coniferous hedge runs either side of the garage along the remainder of this boundary on the applicant's side of the boundary. There is a level difference of approximately 1 metre between the application site and the property at 17 Tees Grange Avenue, with this property sitting at the lower level.

The existing garage sits a similar distance away from this boundary although is slightly shorter than the proposed annexe at approximately 8.5 metres in length. It has a pitched roof approximately 3.7 metres in height at ridge level with the ridge running east to west adjacent to the northern boundary. The roof of the proposed annexe would be a hipped roof, with a maximum height to ridge of 4 metres, although the form of the roof over the proposed lounge and kitchen/diner element along the north boundary would be similar in height to that of the existing garage albeit that it would extend for a further 1.4 metres along this boundary. Although 17 Tees Grange Avenue has been extended at single storey across its rear elevation, it is not considered that the proposed annexe, when compared to the existing garage in terms of its form and massing would have an unacceptable loss of outlook from the rear of this property or from its extension so as to warrant refusal of the application on this basis. There will be no window openings in the north elevation of the proposed annexe although patio doors serving the kitchen/dining area in the west elevation will be located adjacent to the common boundary. The submitted plans show however that the existing boundary fence will limit any overlooking of the rear garden of 17 Tees Grange Avenue from this aspect.

An objection has also been received from the occupants of 19 Tees Grange Avenue to the north west, however views of the proposed annexe from this property and its garden area would be oblique and as such it is not considered that the proposal would have any unacceptable impact in terms of loss light, privacy or outlook. Similarly an objection has also been received from 1 Lauriston Close to the west which shares its eastern boundary with the application site. Although the proposed annexe would be closer to this boundary and greater in terms of its footprint and massing than the existing garage, the two properties are separated by a substantial coniferous hedge. As before the roof and upper part of the annexe will be visible from the rear of this property, although the majority of the building would be screened by the hedge between the two properties such that there would be no unacceptable loss of amenity to this property in terms of light, outlook or privacy due to overlooking.

Notwithstanding the above considerations, even if the building were a new dwelling it would be regarded as being in keeping with the Council's separation guidelines relating to existing original dwellings despite changes in ground level due to the low height of the building.

In terms of activity levels associated with the proposed annexe and the potential for disturbance arising from the use of the annexe and existing garden area, it is not proposed to form a separate garden area to serve the annexe. While the family members occupying the annexe may reasonably use the area directly to the rear of the annexe the entire garden is available for the

whole family to use. The Local Planning Authority currently has no control over how various parts of the garden area are used and therefore it would be unreasonable to refuse planning permission on the basis that the use of this part of the garden could result in disturbance and loss of privacy to surrounding residents. Conditions restricting permitted development rights across the site and preventing the erection of fences or means of enclosure within the site to avoid the subdivision of the curtilage area are attached to protect the amenities of surrounding properties.

Highway Safety

The existing property at 9A Tees Grange Avenue sits in sizeable grounds served by an existing vehicular access off Tees Grange Avenue. There is sufficient space within the curtilage for the parking and turning of vehicles associated with the existing dwelling and annexe. On this basis the Highway Engineer has raised no highway objection to the proposal.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The proposed development has been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. The proposed development does not give rise to crime and disorder issues.

CONCLUSION

The erection of a building to provide annexe accommodation to be used by family members in connection with the main dwelling is considered to be acceptable in principle. A draft Section 106 Agreement has been submitted by the applicant in which he covenants that the building will be used solely as an annexe to the main dwelling and will not be used as a separate dwelling which provides the Local Planning Authority with appropriate controls over its occupation. The proposed building is considered to be acceptable in terms of its scale, design and use of materials in the context of both the application property and the character and appearance of the surrounding area. It is not considered to have any unacceptable impact on residential amenity, loss of light, outlook or privacy. The proposed building does not give rise to any issues of highway safety and therefore complies with the requirements of Saved Policy H12 (Alterations and Extensions to Existing Dwellings) of the Borough of Darlington Local Plan 1997.

RECOMMENDATION

THAT SUBJECT TO A SECTION 106 AGREEMENT PREVENTING THE USE OF THE PROPOSED RESIDENTIAL ACCOMMODATION AS A SEPARATE DWELLING PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 Implementation Limit (Three Years)
2. B4 Details of Materials (Samples)
3. D2 No additional windows or glazed openings in north elevation
4. C5 Removal of permitted development limits

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) no gate, fence, wall or other means of enclosure shall be erected within the site unless with the prior written approval of the Local Planning Authority.

REASON – In the interest of amenity.

6. B5 Development in accordance with approved plans.

SUGGESTED REASONS FOR GRANTING OF PLANNING PERMISSION

The erection of a building to provide annexe accommodation to be used by family members in connection with the main dwelling is considered to be acceptable in principle, subject to a Section 106 Agreement controlling the use of the annexe. The proposed building is considered to be acceptable in terms of its scale, design and use of materials in the context of both the application property and the character and appearance of the surrounding area. It is not considered to have any unacceptable impact on residential amenity in terms of loss of light, outlook or privacy. The proposed building does not give rise to any issues of highway safety and therefore complies with the requirements of Saved Policy H12 (Alterations and Extensions to Existing Dwellings) of the Borough of Darlington Local Plan 1997.