



Appeal Decision

Site visit made on 7 August 2014

by M Seaton BSc (Hons) DipTP MRTPI

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

Decision date: 26 August 2014

Appeal Ref: APP/N1350/A/14/2217873

Site to the East of Hurworth Cottage, 7 Croft Road, Hurworth, Darlington, DL2 2HD

- 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 James Gareth Orpen against the decision of Darlington Borough Council.
 - The application Ref 14/00086/FUL, dated 29 January 2014, was refused by notice dated 28 March 2014.
 - The development proposed is the erection of a 2-storey detached dwelling-house on existing hardstanding tennis court, curtilage land to east side of existing residential property.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 2-storey detached dwelling-house on existing hardstanding tennis court, curtilage land to east side of existing residential property on a Site to the East of Hurworth Cottage, 7 Croft Road, Hurworth, Darlington, DL2 2HD, in accordance with the terms of the application, Ref 14/00086/FUL, dated 29 January 2014, subject to the conditions set out in the Annex.

Procedural Matter

2. The content of the recently published national Planning Practice Guidance has been considered, but in light of the facts in this case the national Planning Practice Guidance does not alter my conclusions.

Main Issues

3. The main issues in this instance are;
 - whether the proposed development would preserve or enhance the character or appearance of the Hurworth Conservation Area; and
 - the effect of the proposed development on the living conditions of No. 5 Croft Road, having regard to outlook and light.

Reasons

4. The Council has indicated that the appeal site is located beyond the development limits of the existing settlements of Hurworth and Hurworth Place, although beyond reference to Policies CS1 and E2 of the Darlington Core Strategy 2011 (the Core Strategy), has not placed any details of the specific

extent of the development limits before me as part of the evidence attached to this appeal. However, I have noted that the appeal site is located within a village rather than rural setting and is in a relatively sustainable location with good access to the range of facilities and services within Hurworth Village, and also access to a bus stop for regular services to and from Darlington close to the site. The Council has accepted that the position of the site beyond the development limits would not be a reason for refusal in itself, but that when taken into account with the results of the most recent Strategic Housing Land Availability Assessment (SHLAA), that an overriding justification for the development in this location has not been provided. However, whilst I note that the appellant has disputed the Council's position in being able to demonstrate a 5 year housing land supply, I have not found the limited evidence provided on this matter by either party to be particularly compelling. I have therefore assessed the appeal on the basis of paragraph 14 of the National Planning Policy Framework (the Framework), as to whether or not the proposal would amount to sustainable development.

Conservation area

5. The Council has highlighted that the key positive characteristics of the Hurworth Conservation Area at this point are the abundance of trees which provide a visual termination to the village, and a direct contrast to more recent development on the south side of Croft Road, and large dwellings set within large grounds. Furthermore, the contribution that these large sites have to the sense of openness between Hurworth Place and Hurworth has been emphasised.
6. The domestic curtilage of No. 7 Croft Road is of a significant size and area, even by comparison with the curtilage of other large dwellings in the immediate vicinity on the north side of Croft Road. Whilst the submitted plans and details indicate that the proposed sub-division of the existing plot would result in a new dwelling with a smaller curtilage, neither that attached to the proposed dwelling nor the residual curtilage of No. 7 Croft Road, would represent a significant departure from the prevailing character of large dwellings in large grounds. Furthermore, the position of the proposed dwelling on the area of the site currently occupied by the disused tennis court would ensure that existing mature trees would not need to be removed, either from the boundary or within the appeal site. This would maintain the green and verdant character of the appeal site and its contribution to the existing green buffer between the settlements, and the character and appearance of the conservation area in this respect. Furthermore, whilst I agree with the general acceptance that the proposed dwelling would not be readily visible from Croft Road, from my observations on the site visit I am also satisfied that as a result of significant existing boundary planting adjacent to the public footpath to the north, the appeal site would not be readily visible from open countryside.
7. The Council has highlighted that the appellant has not undertaken an assessment of the significance of the impact of the development on the conservation area as required by paragraph 128 of the Framework. Whilst I am mindful from the evidence submitted that such an assessment would not appear to have been undertaken, I am satisfied from the Council's evidence that the purpose and objective of such an assessment, which would be to inform the Council's assessment of the potential impact on the significance of the heritage asset in determining the application, has been met, albeit that in

this instance I have not agreed with the Council's conclusions. I have also had regard to the consultation response of the Council's Conservation Officer which indicated that the design of the proposed dwelling was rather simple and lacked architectural features, and could be improved. However, I have noted that the wider conservation area exhibits a significant variety in the design and architectural style of development, as well as in the position and relationship between adjacent dwellings. Furthermore, given the stated importance of achieving an appropriate use of materials on the proposed dwelling, the imposition of a condition requiring the approval of such details would allow the Council to exercise satisfactory control in this respect.

8. The Council has also expressed concern that a grant of planning permission would set a precedent for other similar developments. However, no directly comparable sites to which this might apply have been put forward. Furthermore, whilst I am mindful that each application and appeal must be determined on its own individual merits, I envisage that a grant of any planning permission in this instance would not prevent the Council from successfully being able to resist development which could be shown to be likely to cause demonstrable harm.
9. On the basis of the evidence placed before me and my observations on site, I conclude that the proposed dwelling would preserve the character and appearance of the Hurworth Conservation Area. The proposal would accord with Policy CS14 of the Core Strategy, which seeks to ensure that development promotes local character and distinctiveness and protects the settings and features of historic importance in conservation areas. Furthermore, I have also had regard to Section 12 of the Framework, which seeks to promote the conservation or enhancement of the historic environment.

Living conditions

10. The proposed dwelling would occupy a position to the north-west of the rear of the neighbouring property at No. 5 Croft Road, and would be set away from the common boundary by 6.75 metres. Whilst I accept that the position of the proposed dwelling would have a limited impact on existing levels of sunlight available to the neighbouring garden and courtyard towards the latter part of the day, I am satisfied that the scale, orientation and position of the proposal would not result in a significant impact on overall levels of natural light available to the occupiers of the neighbouring dwelling. In reaching this conclusion, I have been mindful of the impact of the existing mature trees and planting on the appeal site and the context of the relationship with the neighbouring property. In respect of outlook, the proposed dwelling would clearly represent an alteration to the existing outlook available from both the rear of the neighbouring dwelling and its courtyard and garden. However, given the position of the dwelling in relation to the boundary, such a change would not in itself warrant the refusal of planning permission, and I am content from my observations on site that an acceptable and satisfactory outlook would be maintained for the occupants of No. 5 Croft Road.
11. The proposed dwelling would not have an adverse effect on the living conditions of No. 5 Croft Road, having regard to outlook and light. The Council has not referred to any Development Plan policies in respect of living conditions in its reason for refusal, and I have therefore assessed the appeal against the Framework. The development would not conflict with paragraph 17 of the

Framework, which seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

12. Interested parties have raised other concerns in respect of the proposed development. These include that the site is located within an area defined as Green Belt with previous attempts to secure permission on other sites in the vicinity and by the appellant on land to the rear of the appeal site have been unsuccessful due to this issue, and that the introduction of a further access on to Croft road would result in highway safety issues. Neither the Council nor the appellant has identified that the land is located within designated metropolitan green belt, and in the absence of any definitive evidence on this matter to the contrary, I am unable to conclude that this is the case. I have also not been provided with any detailed submissions in respect of the circumstances or similarities of other developments referred to, and I am therefore unable to draw any conclusions in respect of their relevance to the appeal proposals. In respect of highway safety, I note that the proposed access point for the dwelling already exists, and that its use in the manner proposed has not attracted any objection from the Council's highways team. The Council has therefore not articulated this issue in a reason for refusal, and in the absence of any further evidence, I have not attached any significant weight to this matter in reaching my decision.
13. In reaching my decision, I have noted the appellant's argument regarding the creation of a 'fall-back' position through the approval of two blocks of detached garages in a similar location to the proposed dwelling. Whilst I have had regard to the existence of this earlier consent, given the differences in the nature of the developments, I have assessed the proposals solely on the basis of their own merits and have not therefore attached any significant weight to this earlier consent.

Conditions

14. The Council has suggested a number of conditions which it considers would be appropriate were the appeal to be allowed. I have considered these in the light of paragraph 206 of the National Planning Policy Framework.
15. In the interest of proper planning, conditions relating to timeliness and the identification of plans would be necessary. Conditions relating to the submission of full details of the materials of external surfaces of the dwelling would be necessary to preserve the character and appearance of the conservation area. Furthermore, a condition requiring the details and implementation of landscaping and boundary treatment would also seek to maintain the same. A condition requiring the construction of the drive in a sealed rather than loose material would be necessary to safeguard highway safety, and I have added a trigger for implementation prior to the first occupation of the dwelling. However, no evidence has been provided that a previous use of the appeal site or land beneath the tennis court would have been likely to have resulted in contamination being present, and as a result I find the condition to be overly onerous and unnecessary in the context of the appeal proposals.

Conclusion

16. For the reasons given above, and having regard to all other matters raised, the appeal should be allowed subject to the conditions listed.

M Seaton

INSPECTOR

Attached – Annex – Conditions

Annex

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Other than as required by the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, and Drawing Nos. 1848, 1849 and 1859.
- 3) Notwithstanding any details of materials set out in the application, no development shall take place until details of materials to be used in the construction of the external surfaces of the dwelling, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) The first 2 metres of the driveway within the appeal site from the adopted highway shall be constructed from a sealed material. The implementation of this work shall be prior to the first occupation of the dwelling.
- 5) No development shall take place until full details of landscaping works and a scheme of boundary treatment, including a timetable for implementation, have been submitted to and approved in writing by the local planning authority. The scheme shall include details of proposed fencing and existing hedges on the site to be retained, with these to be retained at a minimum height of 2 metres. The approved scheme shall be implemented in accordance with the agreed timetable. If within 5 years of the implementation of the landscaping scheme any hedge or plants die they shall be replaced within the next planting season in accordance with the approved scheme.