



Appeal Decision

Site visit made on 23 January 2014

by **Gary Deane BSc (Hons) DipTP MRTPI**

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

Decision date: 14 February 2014

Appeal Ref: APP/N1350/A/13/2206805 9A Tees Grange Avenue, Darlington DL3 8BL

- 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 S G Edwards against the decision of Darlington Borough Council.
 - The application Ref 13/00156/FUL, dated 4 March 2013, was refused by notice dated 7 June 2013.
 - The development proposed is described on the application forms as the construction of a single storeyed annexe extension sited to the north west of the existing dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a building to form an annex at 9A Tees Grange Avenue, Darlington DL3 8BL in accordance with the terms of the application Ref 13/00156/FUL, dated 4 March 2013 subject to the conditions set out in the schedule to this decision.

Procedural matters

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate decision.
 3. While the appellant has described the proposal as in the above header, the Council has referred to it as the erection of a building to form an annex. From my inspection of the plans, I consider that the Council's description more succinctly and clearly describes the development sought. I have assessed the proposal on that basis.
 4. The appellant has submitted a Planning Obligation under Section 106 of the Town and Country Planning Act 1990, as amended. The Obligation, dated 18 September 2013, limits the use of the building to an annex of the house. While the Obligation has been signed and sealed by the Council, the version before me does not identify on a plan the site or the house to which it relates. In addition, there are several omissions in the Obligation including the application reference and relevant local planning policies. As the Obligation is therefore incomplete, I am unable to attach any weight to it.
 5. At the site visit, I viewed the site from 1 Lauriston Close and 17 Tees Grange Avenue with the consent of the occupiers of each of these adjacent properties. On each occasion, the main parties accompanied me.
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- Interested parties raise concerns about the accuracy of the submitted drawings, which do not show the rear additions of Nos 1 and 17. I have taken these omissions into account in my assessment of the proposal, which is based on all of the evidence before me, an inspection of the site and its surroundings and observations from neighbouring properties. On that basis, I am satisfied that the details of the appeal scheme as shown on the plans and detailed in the written evidence allow a reasonable assessment of the development sought.

Main issue

- The main issue is the effect of the proposal on the living conditions of the occupiers of nearby residential properties with particular regard to outlook, visual impact, privacy, light and potential noise and general disturbance.

Reasons

- The proposal is to erect a detached single storey building at the side of the appeal property, 9A Tees Grange Avenue, for residential use. The new addition would include a lounge, a kitchen and dining room, two bedrooms, bathroom and a utility room. It would occupy a similar position to the existing detached garage, which would be demolished and removed. Once built, a family member of the appellant would occupy the new annex.
- Of the numerous properties that abut the site given its backland location, it is the occupiers of 17 Tees Grange Avenue and 1 Lauriston Close that would be most likely to be affected by the proposal due to the position and orientation of these neighbouring houses.

Outlook and visual impact

- The sidewall of the new addition would be set back from although still close to and parallel with the northern boundary of the site. In this position, the new building would face the rear of No 17, which would stand at right angles to the proposal. When seen from No 17, the appeal scheme would occupy an elevated position due to the notable difference in ground levels. The sidewall would extend across much of the shared boundary between these properties, projecting above the existing fence. As a result, the new built form would be visible from the back garden and through the rear windows of No 17 including those in its single storey extension, which projects from the rear elevation of the main house and so is closer to the site than depicted on the drawings.
- Nevertheless, only the upper part of the new building would be evident when seen from these vantage points given the screening provided by the rear boundary fence and planting albeit vegetation can be cut back or removed at any time. From this direction, the new addition would be marginally higher and longer than the existing garage that similarly projects above and so is visible from the rear of No 17. With its shallow pitched roof and relatively low eaves and ridge level, and having viewed the site from the rear of No 17, I consider that, on balance, the amount of additional built form and its physical presence when experienced from this adjacent house and garden would not differ greatly to that of the existing garage.
- Part of the new building would face 1 Lauriston Close, which also backs onto the site. Compared to the existing garage, the new addition would be slightly closer

to the shared boundary with No 1 and its west elevation would be wider and slightly taller. This neighbouring property has a rear conservatory, which projects beyond the rear elevation of the main house and is not shown on the plans. Consequently, the living accommodation of No 1 is closer to the shared boundary with No 9A than is illustrated on the drawings.

13. To my mind, a reasonably generous distance would still separate the new annex with No 1 even taking into account the position of the conservatory. Dense planting that marks the shared boundary between No 1 and the site, which is to be retained, would largely screen the proposal when seen from this direction at ground floor level. The top of the new building would be evident from the first floor rear windows of No 1, which serve main habitable rooms. Having viewed the site from each of these windows, it is my judgement that compared to the existing garage the new building would not be unduly conspicuous amongst the varied built form that can generally be seen from this elevated position.
14. Overall, the new addition would be noticeably larger than the garage to be replaced. Nevertheless, it has been carefully designed to keep a relatively low profile that would reduce its visual impact. Like the existing garage, the proposal would be in close proximity to Nos 1 and 17 in particular. However, taking into account the building to be replaced, I consider that neither the height, scale or depth of the proposal would be overbearing, dominate external outlook or unduly heighten a sense of enclosure for the occupiers of Nos 1 and 17 or those of other properties that also abut the site.

Privacy

15. As the appeal building would be single storey with the windows in the west elevation directly facing towards a boundary fence and a dense row of retained planting at close range there would be no significant loss of privacy to residents of properties to the west of the site, including No 1. No openings are proposed in the north elevation and so there would be no overlooking problems towards No 1 or the properties on either side of it. If planning permission were to be granted, a condition could be imposed to ensure that no openings are subsequently inserted into the proposed north elevation without the Council's approval, to protect residential amenity.
16. With regard to the rear outdoor space of No 9A, the use of which would remain unaltered, the proposal includes full-length kitchen windows that would open out onto the existing garden next to the shared boundaries with Nos 1 and 17. Even so, the tall boundary fence and vegetation would effectively prevent overlooking towards these neighbouring properties from this part of the site.

Light

17. Because the rear garden of No 17 faces south, there would be some additional loss of light due to overshadowing with the new built form in place. However, that loss of light would not be discernable given that the new annex would be similar in position, scale and height compared to the existing garage. As the proposal would be set back from the shared boundary with No 1, there would be no noticeable loss of light, as it would be experienced from this neighbouring house and garden.

Potential noise and general disturbance

18. The additional residential accommodation could lead to an increase in activity within the site from the general coming and going of people including visitors to the annex and the main house, and in the use of the outdoor space within the curtilage of No 9A. However, the use of the garden could be similar to the domestic activities associated with the main dwelling even with the new annex in place. No change is proposed to the access and parking arrangements within the site. Motorists could use the existing driveway and garage more intensively whether or not planning permission is granted in this instance. To my mind, there would be no unacceptable increase in noise or general disturbance to the occupiers of neighbouring properties as a direct result of the proposal.

Summary

19. Taking all of these points into account, I conclude that the living conditions of the occupiers of Nos 1 and 17 and other properties that abut the site would not be materially reduced if the appeal scheme were to proceed. Therefore, the proposal does not conflict with Policies H12 and H13 of The Darlington Borough Local Plan (LP) insofar as they aim to safeguard residential amenity. Because LP Policy addresses residential development in backland locations, I consider that it applies in this case, unlike the appellant and as set out in the Officer's report. The proposal would also adhere to a core principle of the National Planning Policy Framework (the Framework), which is to always seek to secure a good standard of amenity for all occupants of land and buildings.

Other matters

20. Interested parties consider that the appeal scheme could ultimately result in the creation of a separate dwelling, which is a possibility given that the building would be detached and include self-contained living accommodation. More commonly, a residential annexe would be in the form of an extension to an existing building with limited facilities and often a physical connection between the two elements. However, these characteristics are not necessarily a prerequisite. An annex can also involve a separate building and self-contained accommodation, as in this case.

21. In view of its modest size, backland location with shared access, parking and outdoor space with No 9A, I agree with the Council and others that the creation of an independent residential unit is very likely to be unacceptable. As such, it is necessary and reasonable to restrict the use of the proposal to accommodation ancillary to the main house, which could be secured by condition. Although some objectors cast doubt as to the enforceability of such a restriction, a condition of this type is part of the list of conditions recommended in national guidance. Having regard to the particular circumstances of this case, there is nothing before me to indicate that such a condition would not meet the tests set out in paragraph 206 of the Framework.

22. Paragraph 203 of the Framework states that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. As it is possible to address this particular matter through a condition, the absence of a completed planning obligation does not weigh against the appeal scheme or justify a refusal of planning permission.

23. Although larger than the garage to be replaced, the proposed annex would sit comfortably within the site. With its low profile design and modest size, there would be sufficient space around the new addition to avoid it appearing cramped in terms of layout. The new building would be constructed of brick and tiles, reflecting those used in the host building. To my mind, it would achieve the design standards sought by national guidance and relevant local planning policies to which objectors refer. By reflecting the design and appearance of No 9A, the proposal would not be seen as an uncharacteristic addition. It would be an appropriate form of development, which would not be out of keeping with the character and appearance of the local area. Therefore, I find no conflict with paragraph 53 of the Framework, which notes that planning authorities should consider setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.
24. Objectors note that the gap between the proposed annex and the rears of Nos 1 and 17 would fall short of the minimum separation distances between the habitable room windows that are advised in the Council's Supplementary Planning Document, *Design of New Development*. In my experience, the spacing to which objectors refer is generally directed towards new 2-storey dwellings and is intended to be applied as guidance to be taken into account, which I have done, rather than a standard to be rigidly adhered to. In my opinion, the context of the site and the particular circumstances of the proposal should also be taken into account.
25. In this instance, a new single storey building would be introduced in place of a garage that would be sufficiently well removed from the rear elevations and back gardens of Nos 1 and 17 to avoid any undue harm to the living conditions of the occupants of these properties. There would also be sufficient space and screening around the new building to ensure adequate visual separation with nearby buildings. As a result, the proposal would not infringe the main underlying purposes of these guidelines, which is to safeguard residential amenity and to avoid a cramped layout and appearance. Given the particular circumstances of this case, I consider that a breach of these guidelines, as suggested, is insufficient, in itself, to justify withholding planning permission.
26. There is understandable concern that the demolition and construction phases of the development would cause unacceptable levels of noise, dust and general disturbance to local residents. I am sympathetic to these anxieties and note the personal circumstances of the occupiers of No 1. Given that the site adjoins a significant number of properties, I consider that restrictions on the times in which demolition and construction could take place, which could be secured by condition, would reduce the potential disturbance from these activities to within acceptable limits.

Conclusion and Conditions

27. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be allowed subject to conditions.
28. For the avoidance of doubt and in the interests of proper planning, it is necessary to impose a condition to ensure that the development is carried out in accordance with the approved plans. As the finished building should have a unified appearance in relation to No 9A with respect to the external materials

used, a condition is imposed to require that samples are submitted for the Council's approval before work starts. This condition is to ensure that the completed annex has a satisfactory appearance.

29. To safeguard the living conditions of the occupiers of No 17, a condition is required to ensure that no windows are inserted into the north elevation of the annex. Conditions are also necessary and necessary to restrict the use of the annex and to prevent subdivision of the curtilage of No 9A to ensure that the development remains ancillary to the dwelling. Finally, in this instance, a condition is imposed to control the hours during which work in connection with the development can be implemented, in the interests of residential amenity.
30. Where appropriate and necessary, I have adjusted the wording and added to the conditions suggested by the Council to more closely reflect national guidance and the particular circumstances of this case.

Gary Deane

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Refs 12301/1, 12301/2, 12301/8C and 12301/9.
- 3) No development shall take place until samples to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows shall be constructed on the north elevation of the building hereby permitted.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected so as to sub-divide the curtilage of 9A Tees Grange Avenue, Darlington DL3 8BL.
- 6) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 9A Tees Grange Avenue, Darlington DL3 8BL.
- 7) No building operations, site clearance or demolition shall take place on the site otherwise than between 0800 hours and 1800 hours on Mondays to Fridays, 0800 hours and 1300 hours on Saturdays and at no time on Sundays or Bank and Public Holidays.