



Appeal Decision

Site visit made on 10 November 2008

by **J S Deakin FRICS**

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

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Decision date:
17 November 2008

Appeal Ref: APP/N1350/A/08/2078609

63 Middleton Lane, Middleton St George, Darlington DL2 1AD

- 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 & Mrs J Strachan against the decision of Darlington Borough Council.
- The application Ref 08/00216/FUL dated 6 March 2008 was refused by notice dated 29 April 2008.
- The development proposed is the erection of two detached dwellings with associated garaging, parking and access.

Decision

1. I allow the appeal, and grant planning permission for the erection of two detached dwellings with associated garaging, parking and access at 63 Middleton Lane, Middleton St George, Darlington DL2 1AD in accordance with the terms of the application, Ref 08/00216/FUL dated 6 March 2008, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings 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.
 - 3) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the dwellings are occupied or in accordance with a timetable agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details.
 - 4) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
 - 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 development within Schedule 2, Part 1, Classes A to H shall be carried out without the prior written consent of the local planning authority.

- 6) Notwithstanding anything shown on the submitted drawings, provision shall be made for a turning area within the site for emergency services vehicles in accordance with details which have been submitted to and approved in writing by the local planning authority. The dwellings shall not be occupied until the approved works have been carried out.

Main Issue

2. I consider that the main issue is the effect of the development on the character and appearance of the surrounding area, with particular reference to its location within the Middleton One Row Conservation Area.

Reasons

3. The Middleton Lane part of the Conservation Area was described in the original designation document as "*consisting of mature parkland and woodland, fenced and walled with some architecturally interesting Victorian villa properties*". During recent years, there has been considerable new housing development along the west side of Middleton Lane: this includes the former Ropner Convalescent Home, a bungalow and dairy building redeveloped as Cedar Grove, and the Thorntree House site. In addition, planning permission was granted in January 2008 for the conversion of the adjoining house at 64 Middleton Lane to four apartments and the erection of three townhouses in the rear garden.
4. There were special circumstances which distinguish the former Ropner Convalescent Home site and the dairy site from the current appeal. The redevelopment of the former dairy removed a commercial use from a residential area and could be seen as an enhancement of the Conservation Area. Nevertheless, the plans and aerial photographs show that the dairy site included a large expanse of undeveloped garden attached to the bungalow. This open land has now become part of the Cedar Grove development.
5. The density of housing in this part of Middleton Lane has greatly increased in recent years and extensive open areas of gardens have been developed. There will be a further erosion of open space if the approved development at No.64 is carried out. The Council argues that the cumulative erosion of large gardens would detract from the character of this part of the Conservation Area. On the other hand, the appellants' agent suggests that the planning approval at No.64 sets a precedent.
6. Each case must be considered on its individual merits, but despite the differences between the various sites, it seems to me that the Council has accepted the general principle of more intense backland development. Whatever the background reasons for the planning permissions, the density of development and the Victorian villa character of the area have changed. Nevertheless, the mature parkland and woodland appearance has, to a large extent, been retained because of the front boundary trees, the spacious front gardens, and glimpses of large houses seen through the trees. The two new

dwellings would be well screened by the existing dwelling and by the frontage trees and bushes. They would have very limited visual impact when seen from Middleton Lane and would not significantly detract from the wooded appearance of the street scene.

7. I conclude that the cumulative effect of development of this secluded site would not cause undue additional harm to the area. The development would have a 'neutral' impact on the Conservation Area and would, therefore, preserve its character and appearance in accordance with PPG 15. It would also comply with Local Plan Policy E29 – The Setting of New Development.
8. The upper parts of the new buildings would be visible from the adjoining properties on Cedar Grove and The Paddock. However, I consider that the separation distances are sufficient to prevent the dwellings being unduly dominant or overbearing. The Council accepts that the proposal complies with Local Plan Policy H11 in respect of privacy standards, relationship to existing dwellings, car parking and pedestrian access and I see no reason to disagree with this opinion. I also consider that the proposal would comply with Local Plan Policy H13 relating to backland development.
9. I have been referred to various planning refusals. A recent application for two large detached houses in the grounds of No.64 was refused because no provision was made for affordable housing. An application for planning permission for a single dwelling at 65 Middleton Lane was refused in April 2008. The reasons given included the cumulative effect of another house on the character and appearance of the Conservation Area; loss of entrance piers; and the detrimental impact on protected trees. A recent Appeal (A/08/2070342) for a single dwelling at 16 Church Lane was dismissed. In that case, the dwelling would have been at the side rather than the rear and would have detracted from the street scene. The Inspector was also concerned about the design of the building and the effect on protected trees. In my opinion, there are significant differences between these refusals and the current proposal. I conclude that these examples are not material considerations of sufficient weight to justify dismissing the appeal.
10. Some trees along the Middleton Lane frontage are subject to a Tree Preservation Order but the Council acknowledges that the development is unlikely to impact on any protected trees. Apart from the frontage trees, there are several trees and shrubs within the garden. The Arboricultural Survey prepared for the appellants assessed and categorised all the trees within the site in accordance with BS 5837:2005. Virtually all the trees within the rear garden were classified as Category C trees with a low amenity value. The Report indicated that these trees should not be regarded as a constraint to development. Subject to appropriate conditions to ensure that existing trees are properly protected during building works, I consider that the development would comply with Local Plan Policy E12.

Conditions

11. The Council has suggested various conditions which should be imposed if the appeal is to be allowed. Prior approval of external materials and of boundary treatments should be obtained to ensure that the development is in keeping with the surrounding area. I have simplified the proposed condition relating to

protection of trees and included it as part of a general landscaping condition. The exact details of the means of protection can then be discussed with the Council. Provision of a turning area for emergency vehicles is necessary in the interest of public safety. Permitted development rights are withdrawn to prevent development within the curtilage of the dwellings being carried out without specific approval. I have detailed the Classes of permitted development to be excluded as I consider that the Council's suggested wording is not sufficiently precise.

12. It is not necessary to impose planning conditions relating to disposal of foul sewage and surface water as these matters are dealt with under other legislation.

J S Deakin

INSPECTOR