



Appeal Decision

Site visit made on 29 June 2010

by **R R Lyon MA CEng MICE MRTPI FCIHT**

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

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Decision date:
16 July 2010

Appeal Ref: **APP/N1350/A/10/2126005** **land adjacent to 22 Friars Pardon, Hurworth, Darlington DL2 2DZ**

- 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 L Puchala against the decision of Darlington Borough Council.
- The application Ref 09/00672/FUL, dated 22 September 2009, was refused by notice dated 15 January 2010.
- The development proposed is new dwelling on land adjacent to No. 22 Friars Pardon.

Decision

1. I allow the appeal, and grant planning permission for a new dwelling on land adjacent to No. 22 Friars Pardon Hurworth, Darlington DL2 2DZ in accordance with the terms of the application, Ref 09/00672/FUL, dated 22 September 2009 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) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers SCH157.1.A and SCH7.2.B.
 - 3) Notwithstanding any description of the external materials in the submitted application, no development shall take place until details and samples of the materials to be used in the construction of the external surfaces of the dwelling 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 enlargement, improvement or any other alteration to the premises, including any additional structures or buildings within the curtilage of the site shall be carried out without the prior consent of the local planning authority, to whom a planning application must be made.
 - 5) No development shall commence until a scheme for the provision and implementation of a surface water drainage scheme incorporating run-off limitation has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved programme and details.
 - 6) In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (i) and (ii) below shall have effect until the expiration of 1 year from the date of the occupation of the building for its permitted use.

- i) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard [3998 (Tree Work)].
 - ii) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
 - iii) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.
- 7) Before the first occupation of the dwelling hereby permitted the velux windows in the east and west elevations shall be fitted with obscured glass and shall be permanently retained in that condition.

Reasons

2. The ridge height of the proposed bungalow would be some 1.5m above that of the adjacent bungalow at No.20, but lower than Nos.32 to 36 opposite. The front elevation would be set back some 6m from that of No.20 and would not be viewed in the context of the fairly regularly spaced bungalows on the approach through Friars Pardon. The development around the head of the enlarged turning area alongside which the appeal site stands takes a different form to development in the rest of Friars Pardon. Here, the rooflines tend to merge visually with little visual level difference or gaps between the main buildings, as can be seen particularly at Nos.26-30 and Nos.22/24. I consider that the proposed bungalow standing in the large gap between Nos.22/20 would not be out of keeping with its surroundings.
3. The rear garden area would be some 9m x 11m; not dissimilar to others in the turning head. Also, whilst the proposed building would be close to the east and west boundaries of the site, the separations from the adjacent dwellings would reflect other separations in the vicinity. I conclude that the proposed bungalow here would not result in over-development of the site, or in an overbearing effect on other properties.
4. A number of rooflights face towards Nos.20 and 22; however, any potentially harmful overlooking could be avoided by the imposition of a condition requiring obscure glazing. Three windows and a utility room door, none of which relate to primary living accommodation, would be placed on the east elevation. They would face the garden of No.20, but only with oblique views to the living accommodation. The nearest window of a habitable room in No.20 is a lounge window/patio door. When measured from the centre of this opening, the proposal would fail the Council's 45° rule by 1.6m; this rule provides a guide as to the likely harmful effect by loss of light to neighbouring properties. In this case, bearing in mind the proposed 4.5m separation between the walls of the bungalows and the relatively low eaves height of the proposal, I consider that

the proposal would not cause any material harm to the living conditions of the residents at No.20 by way of loss of light.

5. I conclude that the proposal would not result in overdevelopment of the site and would not harmfully affect the character and appearance of the area. Further, it would not harmfully affect the living conditions of residents at No.20 by way of overshadowing or loss of light. I judge that the proposal would not conflict with policy H11 of the Borough of Darlington Local Plan.
6. I have considered what conditions might be necessary in addition to the usual commencement condition and the obscure glazing condition that I mention in paragraph 4. To ensure a satisfactory development as designed, I consider it necessary to impose conditions requiring the Council's approval to external materials and that construction should be in accordance with the detailed plans. This latter will make the Council's suggested condition to require the provision of 2 parking spaces superfluous as the plans deal with the point.
7. As the proposal overlaps with the building at No.20 and the rear garden stands in front of No.22, there is the potential for development that would otherwise be permitted development to impact adversely on the living conditions of neighbours. I will withdraw such permitted development rights. The trees on site make an important contribution to the character of the area; I will impose a condition requiring their protection during construction works – I note here that the condition suggested by the Council relates to demolition works; in fact the trees are retained trees and I will impose the condition at DOE Circular 11/95 (*The Use of Conditions in Planning Permissions*), model condition 75. To protect the vicinity from the increased risk of flooding, I will also impose a condition requiring that surface water drainage is dealt with appropriately.
8. Finally, I have borne in mind that the proposal would develop a residential garden, and that private residential gardens are no longer included in the government definition of previously-developed land. The matter was not at issue in this case. In particular, I note that the site benefits from outline planning permission for a bungalow in a similar (but slightly narrower) location. For these reasons, I consider that no-one has been prejudiced by me determining the appeal in the way that I have.

R R Lyon
INSPECTOR

