



Appeal Decision

Site visit made on 27 November 2008

by **J D S Gillis** BA(Hons) MRTPI

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

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Decision date:
3 December 2008

Appeal Ref: APP/N1350/A/08/2081344

17 Linden Avenue, Darlington, County Durham, DL3 8PS

- 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 Keith Mash against the decision of Darlington Borough Council.
- The application Ref 08/00301/FUL, dated 28 March 2008, was refused by notice dated 29 May 2008.
- The development proposed is the erection of a two storey dwelling to the rear of 17 Linden Avenue and the re-surfacing of access track to the west of the site to Knoll Avenue.

Decision

1. I dismiss the appeal.

Main issues

2. From the representations received and my inspection of the site and surrounding area I consider that the main issues in this case are the effect of the proposal on the character and appearance of the Stanhope Road/Grange Road Conservation Area and on the living conditions of occupiers of nearby property in relation to visual dominance.

Reasoning

3. The appeal site lies on the edge of the Conservation Area which is characterised by older dwellings with long rear gardens in a mature landscape. The access lane is also partly within the Conservation Area and comprises an un-made track lined with maturing trees. While it has been stated that the trees are not individually worthy of preservation I consider that collectively, along with those in the neighbouring gardens, both inside and outside the Conservation Area, they provide an important feature in the character and appearance of the area.
 4. The rear gardens of the dwellings on this side of Linden Avenue, and within the Conservation Area, provide seclusion for the individual properties together with a significant open space with no large structures to disrupt the spacious harmonious character and appearance of the area. I consider that this is another important feature of the Conservation Area.
 5. While there is a three-storey residential block immediately to the south of the appeal site, and others beyond, these are outside the Conservation Area. I accept that their existence cannot be ignored but I consider that their
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anomalous and discordant form, scale, size and siting should not be regarded as a precedent justifying further intrusive and uncharacteristic development.

6. I note that the proposal would require the felling of a number of trees within the appeal site and adjoining land together with the significant pruning of those alongside the affected section of the rear access lane. As I have indicated I consider that these trees are collectively important to the character and appearance of the Conservation Area, its setting and the surrounding area. In my view the proposed felling and pruning would result in significant harm to character and appearance of the area.
7. The proposed dwelling would occupy an uncharacteristic location in the Conservation Area and significantly detract from the open character of the rear gardens which is a very important feature in establishing the essential qualities of the Conservation Area. I consider that it would fail to relate satisfactorily to the Conservation Area and the wider surroundings due to its siting, scale, mass and bulk.
8. I conclude on this issue, therefore, that the proposed development would result in significant harm to the character and appearance of the Conservation Area and its setting, contrary to saved policies E29 and H11 of the Borough of Darlington Local Plan, adopted in 1997. It would also fail to satisfy the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 and associated national policy advice in Planning Policy Guidance 15, *Planning and the Historic Environment*, which state that special attention should be given to the desirability of preserving or enhancing the character or appearance of Conservation Areas.
9. While the proposal seeks to efficiently and effectively use previously developed land in an urban area, in accordance with national policy guidance in Planning Policy Statement 1, *Delivering Sustainable Development* [PPS1] and PPS3, *Housing*, such advice makes it clear that not all previously developed land is suitable for development. Such advice also emphasises the importance of high quality design, which includes having proper regard to the surroundings.
10. Indeed PPS1 paragraph 34 states that design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted. I consider that the proposed development is inappropriate in the context of the Conservation Area and not only fails to improve the character and quality of the area but in fact would result in demonstrable harm.
11. Turning to the issue of the effect on living conditions, the proposed dwelling would be very close to the boundary with 19 Linden Avenue in an area generally devoid of significant built development. Furthermore it would be essentially a two-storey structure of significant size and mass that would dominate the adjacent garden, notwithstanding the slight difference in ground levels. The application plans indicate that not only would the trees on the application site be removed but that others in the adjacent garden would be affected by the proposal, resulting in significantly reduced screening of the appeal site and the proposed dwelling.
12. While the adjacent three-storey block of flats represents a somewhat discordant element it is further removed from No. 19, sits at a slightly lower

ground level and is partly screened by existing semi-mature trees. In addition, as I have already indicated, such existing building should not provide a precedent for further inappropriate and obtrusive development that fails to relate satisfactorily to its surroundings.

13. Thus I consider that the proposed development would result in visual dominance causing demonstrable harm to the living conditions that occupiers of No. 19 could reasonably expect in this location. Hence it would again conflict with saved policy H11 of the adopted Local Plan.
14. I note that the Council considers the proposal would not result in material harm to the privacy of occupiers of No. 19. I do not disagree with this conclusion. However, on my site visit I noted that the flats immediately to the south of the appeal site have main windows, together with a first floor access way, overlooking the appeal site at a very close distance. Furthermore the private open amenity space of the proposed dwelling would be quite small. Such overlooking could result in a significant loss of privacy for prospective occupiers of the proposed property. In addition, the somewhat restricted private open amenity space would be directly alongside the garage forecourt of the adjoining flats which would be a source of noise and disturbance to prospective occupiers.
15. I have had regard to all other matters raised but none of them is sufficient to outweigh those that have led to my decision and I conclude that the proposal is unacceptable and the appeal is dismissed.

J D S Gillis

Inspector

