



Appeal Decision

Site visit made on 16 April 2012

by **Wenda Fabian BA Dip Arch RIBA IHBC**

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

Decision date: **11 May 2012**

Appeal Ref: APP/N1350/A/11/2167063

Glaisdale Court, Darlington, County Durham DH3 7AD

- 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 Persimmon Homes Teesside Ltd against the decision of Darlington Borough Council.
 - The application Ref 11/00468/FUL, dated 13 July 2011, was refused by notice dated 24 November 2011.
 - The development proposed is variation of planning permission Reference Number 02/00937/RM2 Dated 20 October 2006 for residential development – to permit substitution of house types on thirteen plots and revise the approved layout.
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Procedural Matter

1. At the site visit it became apparent that Dwg No DTC/D/PL01 Revision L, submitted with this appeal, is not the original version of the drawing of the same number and revision submitted at application stage and determined by the Council (although the layout is the same, it shows the relevant plot number wrongly as No 119, not 118 as referred to in the Council's decision notice). This discrepancy has given rise to a confusion highlighted in the Grounds of Appeal. Both parties have agreed that the appeal should be determined on the basis of the version submitted to the Council, which shows plot No 118 as the one immediately adjacent to the party boundary with Nos 58 and 60 Elton Road. The correct (original) version of the drawing, as determined by the Council, has been supplied to me and I have reached my decision on this basis.

Decision

2. The appeal is allowed and planning permission is granted for variation of planning permission Reference Number 02/00937/RM2 Dated 20 October 2006 for residential development – to permit substitution of house types on thirteen plots and revise the approved layout at Glaisdale Court, Darlington, County Durham DH3 7AD in accordance with the terms of the application, Ref 11/00468/FUL, dated 13 July 2011, 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 be carried out in accordance with the approved plans listed in the schedule appended to this decision.
 - 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building 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) The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
 - 5) No works or development shall take place until a scheme in accordance with BS 5837:2005, and in accordance with the *Arboricultural Implication Assessment of Trees* dated 18 August 2011, for the protection of existing trees on the site during construction, has been submitted to and approved in writing by the local planning authority, and the approved scheme shall be carried out in accordance with the approved details and timetable.
 - 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no enlargement, improvement or other alteration of the dwellings on Plot Nos 17 – 20 and 119 – 122, including any additional structures/building within the curtilage of the dwellings shall be erected, without the prior written permission of the local planning authority.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of adjacent residential occupants at Nos 58 and 60 Elton Road in terms of visual intrusion.

Reasons

4. Since determination of the application that led to this appeal, the National Planning Policy Framework has come into force and is a material consideration. The development plan policies referred to in the Council's decision remain relevant in this case.
5. Glaisdale Court, a development of 114 dwellings including a mix of 4 storey apartments and 3 storey town houses as well as large detached dwellings, was granted reserved matters approval in October 2006. It is substantially underway with a large number of the dwellings complete and occupied.
6. The application to which this appeal relates was in respect of house type substitutions for 13 plots. The Council has acknowledged the acceptability of the proposed changes on 12 plots and I see no reason to disagree. The proposed change in layout in respect of plot 118 remains in dispute between the parties. I shall consider the appeal on this basis.
7. I saw that, at its western boundary with the properties on Elton Road, the appeal site is around 1.2 m above these rear gardens, retained by a brick wall topped by a high mature hedge. At plot 118 the proposed dwelling, an L-shaped 'Bewick' house type with an attached double garage, would be located gable onto the boundary; at the closest point, it would be some 2.5m from the party boundary with Nos 58 and 60. At present the wall and hedge effectively screen the appeal site from these dwellings, but the hedge may not always be so high. The apparent height of this two storey gable would be increased by the additional height of the appeal site above the rear gardens, in close proximity to them.

8. However, these neighbouring houses have large rear gardens, around 33m long, such that the distance between these dwellings and the proposed one would be some 36m overall. Given this generous separation, as demonstrated by the site sections submitted with the proposal, the proposed dwelling would not appear overly intrusive or dominant viewed from these adjacent dwellings. This assessment is borne out by the Council's *Supplementary Planning Document – Design for New Development (Design SPD)*; the distance between the dwellings would comply with the separation standards set out in it (21m), taking into account the adjustment for relative floor heights (a further 2m for each 1m difference in level).
9. I conclude that the proposal would not harm the living conditions of adjacent residential occupants at Nos 58 and 60 Elton Road in terms of visual intrusion. It would accord with policy CS16 of the *Darlington Local Development Framework Core Strategy, 2011*, which seeks to protect environmental resources, human health and safety and requires that new development should, amongst other things, ensure there is not detrimental impact on general amenity.
10. As suggested by the Council: for the avoidance of doubt and in the interests of proper planning, a condition requiring the development to be carried out in accordance with the approved plans is necessary; further details of materials are necessary to ensure compatibility with the character of the surroundings; a condition requiring the protection of existing trees on site during construction is necessary to safeguard these trees, which are the subject of the Borough of Darlington Tree Preservation Order No (17) 2006; and for the same reason, despite the presumption against the restriction of permitted development rights set out in DoE Circular 11/95: *The Use of Conditions in Planning Permissions*, any future extensions to the dwellings on plots adjacent to existing trees should be subject to further approval, this is justified here to safeguard the future health of the protected trees. The suggested condition in respect of the Code for Sustainable Homes is imprecise as it leaves the level required to be agreed, however as the Council's requirements in this regard are founded in development plan policy and clearly set out in the Design SPD, I shall amend the condition in accordance with the SPD. The suggested condition requiring obscure glazing at ground floor kitchen and utility windows for Plot 17 is not necessary as the submitted boundary fence details show that this will overcome privacy considerations.
11. Taken as a whole, the appeal should be allowed.

Wenda Fabian

Inspector

Schedule of Approved Plans:

DTC-000-Sec73	Location Plan
DTC/DPL01 Rev L	Proposed Planning Layout
DTC/DPL02 Rev M	Proposed Planning Layout
2006/605-001/1 Rev L	Engineering Layout
DTC/SS/03 Rev B	Proposed Site Sections
BW-WD01	Bewick Plans & Elevations
PT-WD01	Potter Plans & Elevations
KT-WD01	Keating Plans & Elevations
HG-WD01	Hogarth Plans & Elevations
HL-WD01	Hilliard Plans & Elevations