



Appeal Decision

Site visit made on 19 December 2018

by **S J Lee BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2019

Appeal Ref: **APP/N1350/W/18/3209330**

Land south of 8 Lazenby Close, Darlington DL3 9QE

- 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 D Betteridge against the decision of Darlington Borough Council.
 - The application Ref 18/00047/FUL, dated 16 January 2018, was refused by notice dated 4 May 2018.
 - The development proposed is construction of detached bungalow with rooms in roof with detached single garage and detached single garage for host dwelling.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr D Betteridge against Darlington Borough Council. This application is the subject of a separate Decision.

Preliminary matter

3. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main issue

4. The main issue is the effect of the development on the living conditions of future occupants, with particular regard to privacy.

Reasons

5. The appeal relates to the garden of a semi-detached bungalow located at the end of a residential cul-de-sac of similar dwellings. The development would result in a new detached dormer bungalow in the garden, along with a detached garage. The existing detached garage for No 8 would be removed and replaced in a different location.
6. The main parties have both indicated that the development would be within the guidelines for distances between dwellings. However, no details of these guidelines, or their status, have been provided. In any event, it is necessary to

take the individual circumstances of the site and its surroundings into account in assessing the impacts of the development.

7. The Council's decision notice refers to a cramped form of development. Notwithstanding the effect of this on local character, I concur with their view that the squeezing of the dwelling into a relatively constrained space with housing on all four sides, would inevitably lead to feelings of confinement and enclosure. The rear elevation of the development would be closer to the rear boundary than No 8. It would also have a prominent central projection that would include a substantial amount of glazing. This would leave a relatively narrow area of rear garden which would be overlooked from the upper floor windows of 55, 57 and 59 Claxton Avenue.
8. Some degree of overlooking is to be expected in a residential area. However, people sitting out in the confined space, which would be discernibly narrower than the garden of the existing bungalow, would be likely to feel any perceived loss of privacy more acutely than might presently be the case. As well as in the garden, I also consider that users of the 'sun room' could feel particularly exposed, especially as there would be opportunities to view down or across into the space from three sides. The boundary treatment is unlikely to provide sufficient mitigation to address this concern.
9. The rear roof slope would contain two rooflights. I am also concerned that there would be a strong perception of being overlooked within these rooms, particularly from No 57 which is directly in line with the proposed dwelling. As the only source of any outlook, I do not consider the use of obscured glazing would be appropriate. Consequently, the enjoyment of these rooms would be tangibly diminished to the detriment of the occupiers' living conditions.
10. As a result of the somewhat constrained nature of the site and from being surrounded by housing on all four sides, I am concerned that future occupants would feel an overt and unwelcome sense of confinement and loss of privacy from being overlooked. This would be particularly the case in the rear garden, sun room and first floor bedroom areas. On balance, I consider there to be a significant risk of material harm to the living conditions of any future residents.
11. The Council's decision notice refers to conflict with Darlington Core Strategy (2011) Policy CS2 – Achieving High Quality, Sustainable Design. While ensuring a satisfactory living environment is arguably part of achieving high quality design, the policy itself does not mention this factor specifically. Nonetheless, the National Planning Policy Framework makes it clear in paragraph 127f that development should create a high standard of amenity for future users. The development would therefore conflict with national policy in this regard.

Other matters

12. Notwithstanding its reference to a 'cramped' form of development and conflict with Policy CS2 on design, the Council's reason for refusal makes no specific reference to harm to the character and appearance of the area. There has been a significant amount of objection to the siting and appearance of the dwelling from interested parties. As I am dismissing the appeal for other reasons, it is not necessary for me to consider this issue in any more detail. However, even if I were to accept the Council and appellant's position, a lack of harm is a neutral factor that would weigh neither for nor against the

development. As such, it would not alter my overall conclusion about the acceptability of the proposal. The same applies to factors relating to access and the effect on the living conditions of neighbours.

13. The appellant's concerns over the way the Council determined the application has no bearing on my decision. While I understand there may be some frustration that pre-application advice was positive, this is usually given without prejudice. In addition, the Council is permitted to change their views on a proposal as it is being considered. In any event, I have considered the appeal on its own merits; based on the evidence before me and my own observations of the area.
14. The appellant has drawn my attention to another development on Bushel Hill Court which he considers relevant to this appeal. I do not have all the details of this permission and thus cannot conclude with any certainty that the two cases are directly comparable. Interested parties have also highlighted some potential material differences between the proposals. As such, this example does not lead me to alter my overall conclusion.
15. There is a suggestion in the evidence that the development is intended to be occupied by the appellant's daughter. While I understand the desire for the appellant to provide accommodation for family members, personal circumstances such as this rarely outweigh general planning concerns. I must also consider the long-term implications of the development. I do not accept that the concept of 'buyer beware' is a valid reason to allow a form of development that could result in harm.

Conclusion

16. For the reasons given above, I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR

