
APPLICATION DETAILS

Application No: 17/0229/COU

Location: 35 Hutton Road Middlesbrough
TS4 2LG

Proposal: Change of use of land to residential curtilage and erection
of boundary wall and gates to front

SUMMARY

Planning permission is sought for the incorporation of a short section of highway into residential curtilage and erection of 1.3m high boundary wall with 1.6m high pillars and gates to front.

The area of highway subject of this application is not owned by the applicant but by a third party, it originally provided access to playing fields to the rear of properties on Hutton Road. However, the playing fields have been subject of various planning approvals for residential development where the access is taken from a different point to the north east and so the carriage way is no longer required as a means of access.

The highway is not adopted but has operated as a highway for a number of years and the Council has carried out maintenance. As such it is considered that a public right of access has been established and so a Highway Stopping Up Order will be required in the event that planning permission is granted. The outcome of this application will have no bearing on the outcome of any future application for the stopping up of the highway nor does it imply the right to erect the wall or use the land for residential purposes until other necessary legislation has been complied with.

The proposal has been assessed against local policy and guidance and is considered to be a high quality development that will have minimal impact on the character of the area. Given the scale and design of the wall and its relationship to surrounding properties it will not have any significant impact on the amenity of nearby residents. The existing highway is not critical to the operation of the surrounding highway network, providing necessary works to the footpath are carried out, the proposed change of use to residential curtilage will not have an adverse impact on matters of highway safety. All other issues raised have been considered but do not justify refusal of planning permission.

DESCRIPTION OF SITE AND PROPOSAL

No.35 Hutton Road is a two storey, semi-detached dwelling located on a corner plot in a residential area of Middlesbrough. The area is characterised by two storey semi-detached dwellings with small front gardens and parking to the side. Front boundary treatments are typically low level brick walls with pillars in between with a variety of treatments above such as fencing, railings and shrubs.

The proposal subject of this application comprises:

Incorporation of adjacent highway into residential curtilage and erection of 1.3m high boundary wall with 1.6m high pillars and gates to front.

Officer Site visit:
10th May 2017

PLANNING HISTORY

M/FP/0096/11/P. Single storey extension to rear.
Approved with Conditions, 16th March 2011

PLANNING POLICY

In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities must determine applications for planning permission in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. Section 143 of the Localism Act requires the Local Planning Authority to take local finance considerations into account. Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires Local Planning Authorities, in dealing with an application for planning permission, to have regard to:

- a) The provisions of the development plan, so far as material to the application;*
- b) Any local finance considerations, so far as material to the application; and*
- c) Any other material considerations.*

The following documents together comprise the Development Plan for Middlesbrough;

Middlesbrough Local Plan;

- *Housing Local Plan (2014);*
- *Core Strategy DPD (2008, policies which have not been superseded/deleted only);*
- *Regeneration DPD (2009, policies which have not been superseded/deleted only);*
- *Tees Valley Joint Minerals and Waste Core Strategy DPD (2011);*
- *Tees Valley Joint Minerals and Waste Policies & Sites DPD (2011);*
- *Middlesbrough Local Plan (1999, Saved Policies only); and*
- *Marton West Neighbourhood Plan (2016, applicable in Marton West Ward only).*

The overarching principle of the National Planning Policy Framework (NPPF) is to support sustainable development, and that it should go ahead without delay. It defines the role of planning in achieving economically, socially and environmentally sustainable development and recognises that each are mutually dependent. The NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles', which can be summarised as follows:

- *Being plan led;*
- *Enhancing and improving areas;*
- *Proactively drive and support sustainable economic development to deliver homes, business, industry and infrastructure and a thriving local economy;*
- *Always seek a high quality of design and good standard of amenity for existing and future occupants;*
- *Take account the different roles of areas, promoting the vitality of the main urban areas whilst recognising the intrinsic character of the countryside;*
- *Support the transition to a low carbon future, taking full account of flood risk, resources and renewables;*
- *Contribute to conserving and enhancing the natural environment;*
- *Encourage the effective use of land;*
- *Promote mixed use developments;*
- *Conserve heritage assets in a manner appropriate to their significance;*
- *Actively manage patterns of growth making fullest use public transport, walking and cycling and focus significant development in sustainable locations; and*
- *Take account of local strategies to support health, social and cultural well-being and deliver community and cultural facilities to meet local needs.*

The planning policies and key areas of guidance that are relevant to the consideration of the application are:

DC1 - General Development
CS5 - Design

The detailed policy context and guidance for each policy is viewable within the relevant Local Plan documents, which can be accessed at the following web address.
<https://www.middlesbrough.gov.uk/planning-and-housing/planning/planning-policy>

CONSULTATION AND PUBLICITY RESPONSES

Middlesbrough Council Highways

No objection subject to the footpath to the front of the site being made good and an informative advising the applicant of their responsibility in relation to stopping up of the highway and any associated works.

Middlesbrough Council Valuation and Estates

No comments received.

Ward Councillor

Councillor Davison objects to the proposal.

Public Responses

Number of original neighbour consultations	3
Total numbers of comments received	8

Total number of objections	8
Total number of support	0
Total number of representations	0

Nearby Neighbours were notified of the proposal, comments from the following were received:

Mr J Smith, 56 Hutton Road
 J Coupland, 70 Hutton Road
 Mrs J Surtees, 50 Hutton Road
 Mr K Surtees 50 Hutton Road
 Mr P Davies 52 Hutton Road
 Mr and Mrs Conlan, 44 Hutton Road
 Ms S Boddy, 31 Hutton Road
 Occupant, 54 Hutton Road

Comments received can be summarised as follows:

- Loss of turning area.
- Loss of on street parking.
- Loss of access to field and possible development to rear.
- Increased vehicular movements at opposite corner will be detrimental to road safety and prevent access to property to rear of No.50 Hutton Road
- Other entrance to development at field to rear is inadequate. This part of the highway provides a more appropriate alternative.
- A previous fence erected without planning permission nearly caused accidents.
- It is not clear who would maintain the lamppost located on the highway.
- Impact on rates.
- Approved application at land to rear will generate additional pressure on parking.
- Maintenance of grass verges and lighting should be at the cost of the applicant not local residents.
- How can a resident apply for planning permission on land they do not own?
- existing housing does in area does not have adequate parking.
- tree planted in the grass verge by the applicant already prevents parking.
- Applicant has refused to have grass verges removed to aid parking congestion.
- devaluation of property
- loss of parking will increase neighbourhood tension.
- As land is Council owned it should be available to all residents.

PLANNING CONSIDERATION AND ASSESSMENT

Policy

1. The proposal should be assessed against Policies set out in the Development Plan. DC1 and CS5 in essence seek to ensure high quality sustainable development; ensure the amenity of nearby residents; character of the area and highway safety are not adversely affected by the development.

Principle

2. The site is in an area allocated as white land on the Middlesbrough Development Plan and so there is no site specific policy that would indicate that the proposed change of use should be resisted. The land is between two residential properties and so the conversion to residential curtilage would be in keeping with the nature of the surrounding area, there is therefore no objection to the principle of change of use to residential curtilage.

Appearance

3. Surrounding properties feature front walls of varying height and design, the proposed wall and gates subject of this application are of a similar overall height to the walls at the properties immediately adjoining the site, No's 33 and 35 Hutton Road. No. 33 has a red facing brick wall with decorative open concrete block work above, the overall height is approximately 1.4m. The boundary to the front of No.35 features a 1m high, white washed wall with wrought iron railings above, the overall height is approximately 1.3m. The appearance of the adjacent walls are broken up by the decorative block work and the wrought iron railings that sit atop them. The proposed wall will feature solid brickwork up to a height of 1.3m which could appear overbearing, however it will be broken up by the intervening pillars and timber gates. On balance it is considered that the proposed wall will not have an overbearing appearance in the street scene.
4. The proposed wall will feature facing brick to wall and pillars with timber gates, the brick detail will match that at No.33. but will not feature the open block work that sits above. Whilst the proposed design will not match that at No.33 there is no prevailing boundary type and so it is would be difficult to substantiate a refusal of planning permission based on impact on the character of the area.

Amenity

5. The wall is relatively low level and set away from nearby properties and so will have minimal impact on the amenity of nearby residents in accordance with policy DC1 (test c).

Highways

6. The area of highway is not owned by the Council or by the applicant but by a third party. It is not adopted highway but has operated as a highway for a number of years and the Council has carried out maintenance to it. As such it is considered that a public right of access has been established and so a Highway Stopping Up Order will be required in the event that planning permission to change the use of the land to residential curtilage is granted.
7. Although the land currently operates as a highway, it is not critical to the function of the surrounding network. There is a spur of highway opposite that facilitates vehicles turning and whilst vehicles currently park within the area, there is no right to parking within the highway and as such the area cannot be considered as parking provision for nearby properties. There is therefore no objection to the principle of the change of use.
8. The proposed wall will sit across the existing carriageway and footway, works will need to be carried out to continue the existing footway across the frontage of the site to prevent vehicles attempting to carry out manoeuvres in the interests of pedestrian safety. The works will be at the expense of the applicant and will need to meet adoptable standards for construction of a footway and include incorporation of a dropped kerb and verges to match the existing highway layout. A suitable condition to that effect is recommended.
9. The Council will also need to disconnect the existing lighting column to the side of No 35, any costs associated with this work will be passed on to the applicant. The applicant should also be aware that they will be responsible for all costs associated with stopping up or diversion of any services that are within the highway. A suitable informative is recommended.

10. The Councils Highway Officer considered the application and raised no objection in terms of highway safety and so the proposal is considered to be in accordance with Policy DC1 (test d).

Other Matters

11. Concerns raised regarding the operation of the highway in respect of turning provision, parking and highway safety are addressed under paragraph 7 above.
12. In respect of access to properties at the rear of No.50 Hutton Road being disrupted because of inconsiderate parking, the blocking of access is a police matter and is not material to the consideration of this application.
13. With regard to the point raised that loss of the highway will result in lack of adequate access to the proposed development on land to the rear of 35 Hutton Road, the principle of access to this site at a different location has already been established under previous planning permissions and so it would not be justified to uphold a refusal of planning permission based on lack of access to a development site.
14. A number of concerns were raised regarding cost of maintaining the grass verges and lighting column that are within the site and subsequent impact on Council Tax. Impact on Council Tax is not material to the consideration of a planning application. Nonetheless, should Members be minded to grant planning permission then the land would no longer be maintained by the Council and any cost associated with diversion or disconnection of services would be the responsibility of the applicant. As a result there would be no cost implications for the Council or members of the public.
15. Concern was raised that other developments in the area will increase pressure on parking within the street and removal of this part of the highway would exacerbate the problem. However, new development is required to provide adequate parking provision in its own right and so should have no bearing on consideration of this application.
16. In respect of queries raised regarding applying for development on somebody else's land, Members will be aware that an application for development on land belonging to another person can be considered providing the correct certificate relating to land ownership is completed. In this case certificate 'B' which is the correct certificate was submitted along with the application.
17. Members will be aware that devaluation of property is not a material planning consideration, the same applies to neighbourhood tensions which are raised within comments received.
18. The point was made that Council owned land should be available to all residents. The land is not owned by the Council neither is it adopted highway. The Council is therefore obliged to consider the application submitted. The land has been used as a highway for a number years and so the merits of stopping up the rights of access will be considered under Highway Legislation.

Conclusion

19. In view of the above, the proposal is considered to be an acceptable form of development fully in accordance with National and Local policy and is therefore recommended for approval.

RECOMMENDATIONS AND CONDITIONS

Approve with Conditions

1. Time Limit

The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: The time limit condition is imposed in order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. Approved Plans

The development hereby approved shall be carried out in complete accordance with the plans and specifications received on 11th April 2017 and shall relate to no other plans.

Reason: To ensure a satisfactory form of development and for the avoidance of doubt.

3. Footway re-construction works

The existing carriageway on Hutton Road that will become redundant as a result of this development must be reconstructed as a footway to adoptable standards as specified in the Design Guide and Specification. A scheme for construction of the footpath shall be submitted to and approved writing by the Local Planning Authority. Such a scheme as approved shall be implemented before the use hereby approved commences.

Reason: In the interests of highway safety.

4. Materials

The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Reason: To ensure the use of satisfactory materials.

REASON FOR APPROVAL

This application is satisfactory in that the use as residential curtilage and wall accords with the principles of the National Planning Policy Framework (NPPF) and the local policy requirements (Policy DC1 and CS5 of the Council's Local Development Framework). In particular the use as residential curtilage and wall will not prejudice the character and function of the area and does not significantly affect any landscaping or prevent adequate and safe access to the site. The use as residential curtilage and wall will be consistent with the residential uses of this location and will not be detrimental to any adjoining or surrounding properties. The use as residential curtilage and wall will not have an adverse impact on matters of highway safety.

The application is therefore considered to be an acceptable form of development, fully in accordance with the relevant policy guidance and there are no material considerations, which would indicate that the development should be refused

INFORMATIVES

Informative: Highway Closure

Implementation of this proposal will require a formal highway closure and the applicant should be informed that it is subject to public comment and therefore closures cannot be guaranteed. For further information contact Stewart Williams (728153). This closure must be completed before any work is commenced in the vicinity of the affected area.

Informative: Statutory Undertakers

The applicant is reminded that they are responsible for contacting the Statutory Undertakers in respect of both the new service to their development and the requirements of the undertakers in respect of their existing apparatus and any protection/diversion work that may be required.

Informative: Lighting Column

The applicant should be aware that the existing lighting column will need to be disconnected from the power supply by the Council and that the costs of any such works will be passed on to the applicant. Any costs associated with removal of the lighting column will also be the borne by the applicant.

Informative: Highways works and works to sewers

Interference or alteration of the highway requires a licence under the Highway Act 1980. Connections to public sewers in the highway require a licence under NRSWA 1991. The applicant should contact the Highway Authority (Tel: 01642 728156) before any work commences on site, allowing a minimum of 7 days notice, or 30 days in the case of a NRSWA licence, if either or both of these licences are required.

Informative: Condition of highway

The applicant is reminded that building materials shall not be deposited on the highway without the specific consent of the Highway Authority.

Case Officer: Maria Froggatt

Committee Date: 16th June 2017

