

**APPEAL BY MR AND MRS G TURNOCK AGAINST THE DECISION OF THE COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF A FIVE-BEDROOM DETACHED HOUSE ON LAND ADJOINING NO. 20, THE AVENUE, KIDSGROVE**

<b><u>Application Number</u></b>	<b>13/00190/FUL</b>
<b><u>LPA's Decision</u></b>	<b>Refused by delegated powers on 3 May 2013</b>
<b><u>Appeal Decision</u></b>	<b>Allowed</b>
<b><u>Date of Appeal Decision</u></b>	<b>5 March 2014</b>

The full text of the appeal decision is available to view on the Council's website (as an associated document to application 13/00190/FUL) and the following is only a brief summary.

The Inspector considered the main issue to be whether the proposal would prejudice the retention of trees of amenity value growing within or close to the appeal site. In allowing the appeal, the Inspector made the following comments:

- To the south of the appeal site and set at a higher level on an embankment are trees, part of a wooded area protected by a group Tree Preservation Order and within which is Acres Nook Nursing Home. Trees within the curtilage of No. 20, The Avenue are also protected, some of which are within or immediately adjacent to the appeal site.
- Proposals for a detached house on the site were dismissed at appeal in 2010. The appeal was dismissed on the basis that the scheme would prejudice the retention of trees which make a positive contribution to the area's appearance and character and whose public amenity value is recognised through their inclusion in Tree Preservation Orders.
- In dismissing that appeal the Inspector noted the positioning of the proposed house to the north of the fairly dense area of woodland beyond the site. Together with retained trees within the appeal site he considered these would have a significant effect on the amount of daylight and sunlight reaching the site; the proximity of the house to trees of considerable size and maturity would create a gloomy living environment. This would result in pressure from the dwelling's occupiers to undertake works to protected trees that would reduce the contribution they make to local amenity.
- A Daylight and Sunlight Study accompanied the present proposal, something which was not available with respect to the previous appeal decision. The Study concluded that in terms of interior daylighting all rooms would meet or surpass the BRE Average Daylight Factor targets. It was considered that the Study provides a useful empirical pointer to the level of natural lighting that would be experienced within the dwelling.
- The Inspector noted that the study was completed before the removal of two trees within or close to the site. As such, it is likely that these factors could improve the results that would be obtained in terms of lighting. Given these factors and the detailed study, the Inspector was not convinced that the proposal would provide an overly gloomy or oppressive living environment within the dwelling.
- The Inspector also recognised that what would be the principal private garden area associated with the house would be dominated and shaded by existing trees but in his judgement this would not be to an extent that would make the area unpleasant or unusable, especially since the removal of one of the trees on the site. The protected trees here are deciduous with high canopies and for seven months or so of the year when the trees are not in leaf the immediate garden environs of the site would not be markedly dull or oppressive.
- The Inspector was not persuaded that overall the Council would have particular difficulty in resisting calls to carry out unacceptable works to nearby protected trees on the basis of their shading or oppressiveness.
- On balance, in light of the evidence before him and the changed circumstances since the previous appeal decision, the Inspector concluded that subject to the imposition of appropriate conditions, the proposal would not seriously prejudice the retention of trees of amenity value growing within or close to the appeal site.

**Recommendation**

That the decision be noted.