



Appeal Decision

Site visit made on 14 April 2009

by **A J Wilson BA MA DipLA MRTPI**

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

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Decision date:
14 May 2009

Appeal Ref: APP/H0738/A/09/2096094
7 Felton Lane, Bishopgarth, Stockton, Cleveland, TS19 8TW

- 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 Peter Siddell against the decision of Stockton-on-Tees Borough Council.
- The application Ref: 08/3360/COU, dated 21 November 2008, was refused by notice dated 20 January 2009.
- The development proposed is the change of use from open space to private garden.

Decision

1. I dismiss the appeal.

Main issue

2. I consider the main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

3. The appeal site is located within Bishopgarth, an area of mid-twentieth century housing on the western side of Stockton-on-Tees. The groups of mainly semi-detached houses and bungalows have been built to a similar design and have been regularly arranged along a series short estate roads and culs-de-sac, giving a consistent character and appearance to this residential area. The area of land alongside No 7 is one of number of similar, open, amenity spaces laid out in selected locations throughout the estate, particularly at the road junctions. Although these areas are small, and many remain unplanted with either shrubs or trees, they are an important component of the original design of the development. They provide openness in key positions in the street scenes and they help to soften the appearance of the residential environment. Amongst other things, saved Policy GP1 of the Stockton-on-Tees Local Plan seeks ensure that development proposals take place without any unduly detrimental effects on the character and appearance of the area.
4. The proposal would involve the inclusion of one of these open amenity spaces within the curtilage of No 7 and, although the application is silent on boundary treatment, it is more than likely that some means of enclosure would be provided to separate the land from the public highway. I acknowledge that, in itself, this would involve the loss of a relatively modest area of public open space. However, I consider that the enclosure of this amenity area within the garden of No 7 would be sufficiently significant to reduce the openness at the junction with Malton Drive and would detrimentally affect the contribution

which it makes to the character and appearance of this part of the estate. The site is very prominent in the street scene in both directions along Felton Lane, and from public points of view down Malton Drive from the west. The harmful effects of the proposal would thus be readily apparent in the wider surroundings of the locality. I conclude, therefore, that the proposal would harm the character and appearance of the area, in conflict with saved Policy GP1.

5. I also consider that the approval of the proposal would set a precedent for further applications to enclose other areas of open space within the private gardens of individual dwellings. Although each application must be considered on its merits, in my opinion, it would become more difficult for the Council to resist future proposals of this nature. I consider that this would give rise to the cumulative loss of these open areas and a gradual erosion of the role they play in maintaining the character and appearance of the local housing areas, both here and elsewhere in the district.
6. I have no reason to doubt the appellant's evidence that, over time, a few other public open spaces may have been incorporated into the gardens of adjacent properties; although I have no information as to whether these operations would have received the necessary planning permission. I also understand that, in the past, the Council have previously agreed to the sale of the land to the appellant as part of his garden. I have also had regard to the fact that, in 2004, between two refusals of permission on the appeal site in 2002 and 2008, the Council granted planning permission for the inclusion of a similar public amenity space within the private garden of No 102 Marske Lane. Although, in my opinion, the high stained-timber fence which has been erected to provide privacy to the extended garden of this property clearly demonstrates the harmful impact on openness and the appearance of the street scene that I have identified as my main concern in the appeal.
7. I can fully appreciate the appellant's frustration at the apparent inconsistency in the Council's decision making concerning the enclosure of these spaces and his sense of grievance at the unfairness of it all. Regrettably, I have seen nothing from the Council explaining its reasons for allowing permission at Marske Lane; nor is there any reaction to the information about the enclosure of other sites referred to in the appellant's statement of case.
8. Nevertheless, whilst I sympathise with the appellant, I am required to examine each proposal on its particular planning merits, in relation to the policies of the development plan. In this respect I have found that there would be harm to the character and appearance of the area, in conflict with local plan policy, and I consider that this would outweigh any of the other considerations which have been raised. I conclude, therefore, that the appeal should not succeed.

Anthony J Wilson

INSPECTOR

