



---

## Appeal Decision

Site visit made on 18 July 2011

by **Malcolm Rivett BA (Hons) MSc MRTPI**

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

Decision date: 22 July 2011

---

**Appeal Ref: APP/H0738/A/10/2137035**  
**62/64 Meridian Way, Stockton-on-Tees, TS18 4QH**

- 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 Brian Green and Andrew Coulthard against the decision of Stockton-on-Tees Borough Council.
  - The application Ref 09/2951/COU, dated 3 December 2009, was refused by notice dated 27 August 2010.
  - The development proposed is described as "change of use of open space land to private garden and re-alignment of garden fences".
- 

### Decision

1. The appeal is allowed and planning permission is granted for change of use of open space land to private garden and re-alignment of garden fences at 62/64 Meridian Way, Stockton-on-Tees, TS18 4QH in accordance with the terms of the application, Ref 09/2951/COU, dated 3 December 2009, subject to the following condition:
  - 1) Within 6 months of the date of this decision the fence to the rear of 62 Meridian Way shall be re-aligned in accordance with the drawing (stamped SBC 0002) submitted with the planning application and appeal.

### Preliminary Matters

2. The description of the development indicated on the planning application form refers only to the repositioning of fences. Whilst the description set out in the heading above is based on that on the appeal form (and echoes that on the Council's decision notice) the appellants have stated that it has never been proved that the development involves a change of use. However, in the absence of any detailed evidence in relation to this particular matter, it appears to me likely that the appeal scheme would involve a change of use. Consequently, and bearing in mind that the appellants have used this description on the appeal form, I have determined the appeal on the basis of the description of development set out in the heading above.
3. At the time of my visit the appeal scheme had been implemented in part – the fence to the rear of no 64 was as shown on the submitted plan whilst that at no 62 was on an alignment further from the dwelling (ie as indicated by the dashed line on the submitted plan) than is now proposed.

### Main Issue

4. The main issue is the effect of the appeal scheme on the character and appearance of the area.

## Reasons

5. The Meridian Way housing development adjoins open land and the boundaries of the rear gardens of the houses follow an irregular or 'organic' line which is a key element of the character of the area. Full implementation of the appeal scheme would enclose, as private garden, two relatively small triangular areas of the open land and would alter the original alignment of the garden fences. However, the enclosed land would constitute a very small proportion of the open land surrounding the estate and the resulting private gardens would not project, to any significant degree, into the open land. The fences to the rear of nos 62 and 64 would be at different angles to each other, and although these angles would be shallower than was originally the case in this location, they would be comparable with the irregularity of the line of the fences on the nearby, western boundary of the estate. Whilst noting the alternative proposal suggested by the Council, I therefore conclude that full implementation of the appeal scheme would not cause significant harm to the character or appearance of the area. It thus has no conflict with policy CS3 (8) of the adopted *Stockton-on-Tees Core Strategy*. This policy states that new development should protect environmental assets and respond positively to local character. I also find there to be no conflict with the guidance in *Planning Policy Statement 1 – Delivering Sustainable Development*.
6. The current alignment of no 62's fence (ie that in place at the time of my visit) has an awkward right angle which is out of keeping with the 'organic' fence line around the estate and is thus harmful to the character of the area. It is therefore important that the appeal scheme is implemented in full and a condition requiring re-alignment of no 62's fence is thus necessary. The realigned fences are within the red line site boundary shown on the site location plan and, therefore, it is not the case, as suggested by the Council, that this condition would relate to land outside the appeal site.
7. Existing and potential future land ownership issues have also been referred to although based on the submitted, seemingly disputed, evidence the precise position in this regard is unclear to me. However, fundamentally, the merits of a planning application and land ownership are separate issues. Should further changes to the use of the land and the alignment of the fences be sought as a result of land ownership matters, consideration of the effects of such changes could be considered and planning permission granted or refused as appropriate, irrespective of land ownership. Moreover, if land ownership, or other, reasons were to prevent realignment of no 62's fence in accordance with the appeal scheme plan, then the already implemented element of the appeal scheme (ie no 64's fence) would be in breach of a condition of its planning permission and thus liable to appropriate action being taken by the Council.
8. Reference is also made to the previous appeal decision, which happens to be my own, concerning no 64. In essence permission was refused for that scheme (which concerned no 64 in isolation) because the adjoining fence line at no 62, which would have made that proposed at no 64 acceptable, could not be guaranteed; land ownership at no 64 being a further complication. This issue does not arise in this appeal which concerns both nos 62 and 64, bearing in mind the condition which, whatever the ownership of the land, would specifically require implementation of the fence realignment at no 62. The reference in my previous decision to an undesirable precedent being set clearly related to the harmful implementation of the fence realignment at no 62 alone.

The Council is also concerned that allowing the current appeal would set an undesirable precedent for similar proposals. Any such development would need to be considered on its own merits although it appears to me that a scheme comparable with that before me now would be unlikely to cause significant harm.

9. For the above reasons, and having regard to all other matters raised, including the extensive discussions which have taken place between the appellants and the Council, I conclude that the appeal should be allowed. No conditions other than that indicated above have been suggested or are necessary.

*Malcolm Rivett*

INSPECTOR