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## Appeal Decision

Site visit made on 25 October 2011

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

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

**Decision date: 28 October 2011**

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**Appeal Ref: APP/H0738/A/11/2157965**

**1 Vane Court, Long Newton, Stockton-on-Tees, TS21 1PB**

- 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 Alistair French against the decision of Stockton-on-Tees Borough Council.
  - The application Ref 11/0962/COU, dated 21 April 2011, was refused by notice dated 7 July 2011.
  - The development proposed is change of public open space to residential garden (relocation of 1.8m high fence to side to enclose land; land to front to remain open).
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### Decision

1. The appeal is allowed and planning permission is granted for change of public open space to residential garden (relocation of 1.8m high fence to side to enclose land; land to front to remain open) at 1 Vane Court, Long Newton, Stockton-on-Tees, TS21 1PB in accordance with the terms of the application, Ref 11/0962/COU, dated 21 April 2011, subject to the following condition:
  - 1) Within three months of the date of this decision the fence hereby permitted shall be altered to provide a visibility splay in accordance with drawing no 1134/02C and it shall be painted/stained in its entirety in a single colour. Thereafter the fence shall be retained in this form.

### Preliminary Matter

2. The planning application was a retrospective one and the development was in place at the time of my visit, other than it did not feature the visibility splay shown on amended drawing no 1134/02C, submitted during the consideration of the application. Although the majority of the fence is stained/painted dark brown, some sections of it appear to be untreated.

### Main Issue

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

### Reasons

4. Vane Court is part of a largely 'open plan', residential area, although a number of side fences are prominent and several front gardens, including one a short distance to the west of the appeal property, have been enclosed with hedges. The appeal scheme fence's height, length, style and main colour are in keeping with others in the area and it is not alone in almost abutting the footway: an apparently original and much longer fence, surrounding a back garden, borders

the footway in the neighbouring The Yew Walk. Even in 'open plan' estates it is not unusual for corner properties such as no 1 to feature prominent fences around their back gardens. I am satisfied that the fence is not inappropriately obtrusive and that the attractive openness of the area is adequately maintained by the front garden of the appeal property, and the others along The Willow Chase, remaining unfenced.

5. I therefore conclude that the development causes no harm to the character or appearance of the area and thus has no conflict with the requirement of policy CS3 of the adopted *Stockton-on-Tees Core Strategy* that development responds positively to local character.
6. The Council is concerned that allowing this appeal would set an undesirable precedent for similar schemes although it appears to me that there are few locations in the area where a back garden adjoins the highway/its verge. Any such schemes which were to come forward would need to be considered on their own merits and I am confident that the Council could successfully resist them if shown to cause demonstrable harm. The enclosure of front gardens by fences would be a very different form of development. I note the concerns of the Parish Council and others that the scheme was implemented without planning permission although this is not good reason to refuse a subsequent planning application. The ownership of the land which has been enclosed is a private, legal matter and not one of significant relevance to my decision on the appeal.
7. For the above reasons, and having regard to all other matters raised, including the fact that the Council has resisted similar schemes elsewhere, I conclude that the appeal should be allowed. To ensure highway safety and the satisfactory appearance of the scheme it is necessary to require by condition the alteration of the fence to provide a visibility splay for the neighbouring drive and its painting/staining in a single colour.

*Malcolm Rivett*

INSPECTOR