
Appeal Decision

Site visit made on 23 August 2016

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

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

Decision date: 12th September 2016

Appeal Ref: APP/H0738/W/16/3151874

98 Longleat Walk, Ingleby Barwick, Stockton-on-Tees TS17 5BZ

- 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 Miss Louisa Lopez against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 16/0018/COU, registered by the Council on 5 January 2016, was refused by notice dated 16 March 2016.
 - The development proposed is change of use of landscape area to C3 use for residential garden to include the erection of 1.8 metre fence to side of the property.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Part of the date on the application form is indecipherable and I have therefore used the date upon which the Council registered the application in the heading above. The description of the proposal on the application form included reference to the site address which I have omitted from the description of development above as it is not an act of development.

Main Issue

3. The main issue raised by this appeal is the effect the proposal would have on the character and appearance of the area.

Reasons

4. The appeal site is an end of terrace house whose gable wall and rear garden fence abuts an area of grass adjacent to a foot and cycle way. This route provides a pedestrian and cycle link between Goodrich Way to the north and commercial and community facilities which lie to the south of Ingleby Way.
 5. A landscape verge bounds both sides of the route between Kenwood Crescent and Longleat Walk, although this is markedly wider adjacent to houses adjoining the east side of the route, including the appeal site. This spacious arrangement makes a positive contribution to the area's character and appearance and creates an attractive route for pedestrians and cyclists to travel along.
 6. The effect of enclosing the majority of the area with a 1.8m high fence to the side of No 98 would be to significantly reduce the landscaped margin of the foot and cycle way and render the corridor through which they pass materially
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- narrower. This reduction in width would be perceptible from some distance given the straight alignment of the foot and cycle way. This would be in contrast to the arrangement adjacent to end terrace properties on Kenwood Crescent and Broad Oaks Way where wider landscape areas would remain.
7. This effect would harm the established character and appearance of the area and reduce the pleasantness and attractiveness of the route for users. Although the foot and cycle ways are located in an offset relationship within their landscape setting, the whole of the landscaped areas between the gables of adjacent houses and fences together contributes to its spacious character. Notwithstanding that the proposed arrangement would leave a narrow margin adjacent to the cycle way, this would not significantly mitigate the harm the proposed enclosure would cause.
 8. The visibility of the piece of land is reduced from the north to a degree by a small tree however its effect in this respect would be reduced at times of the year when not in leaf and has a very different effect to that which a timber fence would have.
 9. As such, the proposal would not comply with Stockton-on-Tees Borough Council Core Strategy Development Plan Document, 2010 Policy CS3 which requires the design of new development to respond positively to existing features of local character, amongst other criteria. Furthermore, the National Planning Policy Framework (the Framework) considers¹ that developments of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions should be refused permission.

Other Matters

10. The appellant has provided photographs of a number of instances where fences have been erected close to footways elsewhere in the vicinity. However, from the information available and from my own observations these would appear to relate in the main to the narrow footways which run between the short terraces on the estate. Being much shorter and narrower, without separate cycle ways and with less generous landscaped margins, those routes are materially distinct in character and situation that to which is adjacent to the appeal site. Accordingly, I have given these other instances limited weight.
11. I have some sympathy with the appellant with regards to her experiences with the misuse of the area of land in question, with anti-social behaviour and the consequent adverse effects these have on her living conditions. However, there is little evidence to suggest that enclosing the majority of the land would necessarily resolve all these issues or would be the only way to address them. Consequently, I do not consider that this would outweigh the harm identified above.
12. Furthermore, I note the comments of the Council's Community Liaison Officer who considers that by reducing the openness of the footpath and helping provide places of concealment the fence would not be desirable in respect of designing out crime and reducing the fear of crime. There would therefore appear to be a risk that the scheme, in attempting to address some crime issues, could have a negative impact on wider community safety issues.

¹ Paragraph 64.

Although the Council considered that this would not warrant refusal and this matter is not determinative, it nevertheless adds weight to my conclusion.

13. The appellant has also drawn my attention to a fence which has been erected opposite her property. I note that this runs perpendicular to the main axis of the foot and cycle way, is in the most part screened from Longleat Walk by a mature hedge and its height reduces immediately adjacent to the foot and cycle way where it exits the estate adjacent to Ingleby Way. These materially different circumstances do not, therefore, lead me to a different conclusion on the main issue

Conclusion

14. For the above reasons, and having had regard to all matters raised, the proposal would harm the character and appearance of the area contrary to the development plan and the Framework. The appeal is therefore dismissed.

Geoff Underwood

INSPECTOR