



Appeal Decision

Site visit made on 30 November 2021

by Katherine Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2021

Appeal Ref: APP/H0738/W/21/3282865

9 Charrington Avenue, Thornaby, Stockton on Tees

- 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 Alfred Clayton against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 21/0608/COU, dated 10 March 2021, was refused by notice dated 11 May 2021.
 - The development proposed is change of use from open space to residential garden.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the time between the determination of the application by the Local Planning Authority and the submission of the appeal the government published a new version of the National Planning Policy Framework¹ ('the Framework'). I have determined the appeal accordingly.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

4. The appeal site is a strip of grassed land to the side of No 9 Charrington Avenue at the entrance to Ryton Close. The appellant's property is a semi-detached bungalow which faces onto the Avenue and adjoins the appeal site. The area is residential in character consisting of detached and semi-detached bungalows and houses laid out with small front gardens separated by low walls. The estate is characterised by a network of well-kept grassed amenity spaces throughout, and several roads have wide grassed verges alongside the carriageway which collectively make a positive contribution to the appearance of the estate.
5. It is proposed that the use of a strip of land approximately 2 metres in width adjacent to the appeal property would be changed to residential garden to facilitate a wider driveway. No details have been provided to illustrate how or whether the area would be enclosed in any way.

¹ Revised National Planning Policy Framework published 20 July 2021

6. On my site visit, I observed that it is one of the smaller areas of amenity space on the estate. Nevertheless, it contributes to the character of the area in a positive manner and the existence of larger pieces of amenity space elsewhere do not diminish its value.
7. The lack of detail submitted with the application in respect of any proposed boundary treatment means the true visual extent of the impact of the proposal cannot be fully assessed. Details could be conditioned, and I note that the appellant would be agreeable to this. However, I consider that these details are fundamental to the impact that the proposal would have and those parties which have made representations on the application would be denied the opportunity to comment. The proposal would, however, reduce the space by almost half of its current width, thereby weakening its visual appearance and consequently, amenity value. Whilst the space does not hold any recreational value it does contribute to the character and appearance of the area and specifically to that of the Close and the Avenue.
8. It is clear from the representations made that the amenity spaces, and specifically this one, are to the residents of the Close valued assets. Their loss generally would undoubtedly erode the character of the area, and whilst the Council may well be prepared to sell the land as landowner, it does not automatically follow that the land can be used for other uses.
9. The piece of land which is the subject of the appeal is not designated as public open space in policy ENV6 of the Stockton-on-Tees Borough Council Local Plan (LP)² and therefore is not afforded any formal protection. Nevertheless, the policy applies to all areas of amenity open space and seeks to protect spaces across the borough. Additionally, LP Policies SD5 and SD8 are aimed at ensuring that new development respects its surroundings whilst LP Policy SD8 specifically refers to public realm and green infrastructure networks.
10. I have considered the Council's argument that the proposed change of use would set a precedent for similar proposals in the area. Whilst each application must be treated on its own merits and on its own the impact of the appeal proposal on the estate would not be significant. However, I can appreciate the Council's concern that approval of this proposal could be used in support of other similar schemes. This in my view, is not a generalised fear of precedent rather a specific concern about the incremental erosion of the character of the area. Allowing this appeal would make it more difficult to resist further planning applications for similar proposals and their cumulative effect would exacerbate the harm which I have identified.
11. For the reasons set out above, I conclude that the appeal would have an unacceptably harmful effect upon the character and appearance of the area, contrary to the aims of policies ENV6, SD5 and SD8 of the LP.

Other Matters

12. I have noted the appellant's argument that the proposal would enable the parking of vehicles off the highway, however, there are currently 2 car parking spaces available within the appeal site and there is no planning requirement to provide any additional spaces given the size of the dwelling. Additionally, there

² Adopted January 2019

are no parking restrictions in the area which mean that parking on the highway is not permitted or unsafe.

13. My attention has been drawn to other examples close by where amenity land has been granted planning permission to be incorporated into residential use. However, I do not have the full details of these cases before me and in any event, I must consider the appeal scheme on its own merits. These are not matters that would lead me to a different view in this case.
14. The appellants argument that the sale of the land would reduce the maintenance liability on the Council does not carry any weight in my consideration of the appeal.

Conclusion

15. For the reasons given above, and having considered the development plan as a whole and all relevant material considerations, I conclude that the appeal should be dismissed.

Katherine Robbie

INSPECTOR