

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

15 March 2023

**REPORT OF DIRECTOR OF FINANCE,
DEVELOPMENT AND BUSINESS
SERVICES**

22/2114/RET

66 The Stables, Wynyard, Stockton-On-Tees

Retrospective application to incorporate land for residential use to include the installation of 1.5 metre wall/fence.

SUMMARY

The application site relates to a semi-detached property located at 66 The Stables. The rear garden area at the property adjoins an area of open space. The submitted application is part retrospective as works have already been carried. The applicant has partly demolished an existing wall to the rear of the property and incorporated an area of their land beyond by erecting a boundary fence. The land has been levelled out to create a second level of residential garden area and is enclosed by a wooden fence.

The land to the rear is within the applicant's ownership despite it being designated as open space provision within the Adopted Local Plan. Several objections have been received mainly raising concern over the loss of the open space, set precedent and its visual impact.

The main considerations of this application are the impacts on the open space provision, character of the area and residential amenity.

The applicant has submitted a revised plan which shows a reduction of land incorporated (approximately 2.8 metres at its longest part) and proposes to erect a 1.5 metre high wall/fence which would continue from the adjoining neighbours property and would curve at a point to meet the previous wall.

RECOMMENDATION

That planning application 22/2114/RET be approved subject to the following conditions and informatives below;

Approved Plans

01 The development hereby approved shall be in accordance with the following approved plans;

Plan Reference Number	Date Received
SBC0001	21 October 2022
01C	31 December 2023

Reason: To define the consent.

Installation of replacement boundary enclosure

02 The hereby approved enclosure as detailed on drawing 01C (31st December 2022) shall be built and completed within 4 months of the date of this decision unless the written consent of the Local Planning Authority to any variation has first been obtained.

Reason: In the interests of the character and appearance of the street scene.

Materials

- 03 The enclosure hereby approved shall be of a similar brick work to that of the existing boundary wall at the property unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity.

Reinstatement

- 05 The excavated land adjacent to the hereby approved enclosure shall be 'made good' following relocation of the boundary. This external area beyond the new boundary must be backfilled, graded into the surrounding landform, topped with topsoil and grass seeded within 4 month from the completion of the new enclosure.

Reason: In the visual interests of the area.

Removal of permitted development rights - outbuildings

- 05 Notwithstanding the provisions of class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order), the extended residential curtilage area hereby approved (as defined by the hatched line on Plan No 1C, dated 31 December 2022, no erection of any outbuildings shall be erected within the extended curtilage without the written approval of the Local Planning Authority.

Reason: To adequately control the level of development on the site and for avoidance of doubt.

INFORMATIVE

Informative: Working Practices

The Local Planning Authority has worked in a positive and proactive manner and sought solutions to problems arising in dealing with the planning application by seeking a revised scheme to overcome issues and by the identification and imposition of appropriate planning conditions.

BACKGROUND

1. This application has been submitted retrospectively as a result of an enforcement case.

SITE AND SURROUNDINGS

2. The application site relates to a residential property located at 66 The Stables, Wynyard. To the north of the site is a foot path followed by 68 The Stables, to the east is an area of open space and to the south is an adjoining property 64 The Stables.

PROPOSAL

3. The application seeks retrospective consent for the change of use of land to residential curtilage and for the erection of a new boundary enclosure. The land in question is owned by the applicant and at present a fence has been erected without consent.
4. Since the original submission it is now the applicant's intention to remove the fencing erected and erect a new boundary wall with fence at approximately 1.8 metres high which would be in line with the neighbouring properties front boundary of 64 The Stables.

PUBLICITY

5. The following residents have made comment on the application and are summarised below;

- Disappointing works have gone ahead without consultation.
- There are fewer green spaces around Wynyard given the huge amount of housing development and this garden extension has already encouraged others to consider a similar land grab.
- The fence is completely out of keeping with the area and has seen another neighbour opposite erect an additional fence to presumably increase their privacy.
- Covenants are in place through Wynyard Estates on what is or is not allowed
- Approving this retrospectively would send out the wrong message
- Set precedent
- Impact on privacy
- Visual impact of the green
- Current fence not inkeeping with Wynyard Village
- Devaluation of property values/sales
- No opportunity to provide comment prior to submission
- Council tax and annual charges/covenants

Objectors

1. Mrs Jacqueline Watt 27 The Stables Wynyard
2. Mrs Pauline Wood 34 The Stables Wynyard
3. Mrs June Taylor 32 The Stables Wynyard
4. Mr Chris Clements 10 The Granary Wynyard
5. Mrs Tracey Stonehouse 11 The Stables Wynyard
6. Mrs Nicole Vernon 38 The Stables Wynyard
7. Mrs S Allen 25 The Stables Wynyard
8. Paul Robertson 68 The Stables Wynyard

CONSULTATIONS

6. Consultees were notified and the following comments were received:-

7. Highways Transport & Design Manager - The Highways, Transport and Design Manager has no highways objections to this application, but requests some further information as outlined below.

Highways Comments - There are no highway objections to the proposals.

Landscape and Visual Comments - The Highways Transport and Design Manager considers that the proposed new alignment of the boundary as shown on drawing 01C, which ties into the frontage of the adjacent property 64 The Stables would be acceptable.

Due to the change in levels the proposed new wall will act as a retaining structure to soils outside of the garden, and it would be advisable to seek advice from a structural engineer. The full height of the wall should be clearly demonstrated from both outside and inside of the garden.

Having visited the site and viewed other properties within the vicinity the proposed piers in the wall are not typical of the local character but would not have a significant impact. The applicant has already excavated a significant area within the garden up to the current unapproved fence line, including a trampoline pit, and this area must be 'made good' following relocation of the boundary, the area external to the new boundary must

be backfilled, graded into the surrounding landform, topped with topsoil and grass seeded.

PLANNING POLICY

8. Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan is the Stockton on Tees Borough Council Local Plan 2019.
9. Section 143 of the Localism Act came into force on the 15 January 2012 and requires the Local Planning Authority to take local finance considerations into account, this section s70(2) Town and Country Planning Act 1990 as amended requires in dealing with such an application the authority shall have regard to a) the provisions of the development plan, so far as material to the application, b) any local finance considerations, so far as material to the application and c) any other material considerations.

National Planning Policy Framework

10. The purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic social and environmental objectives.
11. So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11) which for decision making means;
 - approving development proposals that accord with an up-to-date development plan without delay; or
 - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - a. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - b. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Para 98. Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.

Para 99. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

Para 174. Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

Local Planning Policy

12. The following planning policies are considered to be relevant to the consideration of this application.

Strategic Development Strategy Policy 1 (SD1) - Presumption in favour of Sustainable Development

In accordance with the Government's National Planning Policy Framework (NPPF), when the Council considers development proposals it will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. It will always work proactively with applicants jointly to find solutions which mean that proposals for sustainable development can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Policy SD5 – Natural, Built and Historic Environment

1 j) Ensuring development proposals are responsive to the landscape, mitigating their visual impact where necessary. Developments will not be permitted where they would lead to unacceptable impacts on the character and distinctiveness of the Borough's landscape unless the benefits of the development clearly outweigh any harm. Wherever possible, developments should include measures to enhance, restore and create special features of the landscape.

Policy SD8 – Sustainable Design Principles

The Council will seek new development to be designed to the highest possible standard, taking into consideration the context of the surrounding area and the need to respond positively to the:

- a. Quality, character and sensitivity of the surrounding public realm, heritage assets, and nearby buildings, in particular at prominent junctions, main roads and town centre gateways;
 - b. Landscape character of the area, including the contribution made by existing trees and landscaping;
 - c. Need to protect and enhance ecological and green infrastructure networks and assets;
 - d. Need to ensure that new development is appropriately laid out to ensure adequate separation between buildings and an attractive environment;
 - e. Privacy and amenity of all existing and future occupants of land and buildings;
 - g. Need to reinforce local distinctiveness and provide high quality and inclusive design solutions, and
 - h. Need for all development to be designed inclusively to ensure that buildings and spaces are accessible for all, including people with disabilities.
2. New development should contribute positively to making places better for people. They should be inclusive and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
 3. All proposals will be designed with public safety and the desire to reduce crime in mind, incorporating, where appropriate, advice from the Health and Safety Executive, Secured by Design, or any other appropriate design standards.

Natural, Built and Historic Environment Policy 6 (ENV6) - Green Infrastructure, Open Space, Green Wedges and Agricultural Land

3. The Council will protect and enhance open space throughout the Borough to meet community needs and enable healthy lifestyles. The loss of open space as shown on the Policies Map, and any amenity open space, will not be supported unless:
 - a. it has been demonstrated to be surplus to requirements; or
 - b. the loss would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
 - c. the proposal is for another sports or recreational provision, the needs for which, clearly outweigh the loss; or
 - d. the proposal is ancillary to the use of the open space; and
 - e. in all cases there would be no significant harm to the character and appearance of the area or nature conservation interests.

MATERIAL PLANNING CONSIDERATIONS

13. The main planning considerations of this application are the impacts on the character of the area and the amenity of neighbouring occupiers.

Principle of Development

14. The Stables development is a horseshoe shape with residential properties separated by an area of green space between the front and rear elevations. This space is an area of public open space provision with a footpath route, which is enhanced by landscape coverage.
15. The application site relates to an area of land to the rear boundary of 66 The Stables and is within the applicant's ownership. This land has now been incorporated as part of the residential curtilage of the property and a fence erected around the perimeter. The fence erected and its positioning at present is considered to appear obtrusive within the wider area and the applicant was advised the unauthorised development is unacceptable and would not be supported.
16. Since the original submission the applicant has altered the alignment of the boundary enclosure and now proposes to erect a part brick wall with piers and picket style fencing between. The proposed height would be approximately 1.5 metres.
17. The applicant's land has been designated as open space provision within the adopted Local Plan. The enclosure of this defined open space would be considered against paragraph 98/99 of the National Planning Policy Framework and local planning policy ENV6. These policies aim to ensure communities have access to high quality open spaces as well as seeking to protect and enhance open spaces.
18. Planning policy ENV6's overall objective is to protect and enhance open space throughout the Borough to meet community need and enable healthy lifestyles. The nature of the open space of the application site, is as an amenity space providing an attractive walking route through the development as opposed to a functional kick about type of open space.
19. Whilst the proposals would result in the loss of open space, therefore being contrary to planning policy, the change of use would not fundamentally affect the overall use of the public open space as an attractive through route, given the extent of public open space which would remain.
20. The revised proposals also ensure there is some continuity with the neighbouring properties boundary line and overall the resultant harm arising from the proposals are considered to be limited and would not undermine the overall purpose of the amenity open space.

Character of the area

21. Planning policy SD5 aims to conserve and enhance the natural environment by ensuring development is responsive to the landscape and by mitigating any visual impacts. It also sets out development should accord with planning policy SD8 which seeks new development to be of a high standard and respond positively to the landscape character of the area.
22. The layout of the residential layout and its relationship to this open space particularly along the northern part, is not continuous in its layout as it juts in and out in places, with staggered boundary lines. The host property is located at a mid-way point between the open space and is separated from the neighbouring property to the north by a public footpath. This footpath connects to the lower-level footpath (north) and to the higher-level footpath located to the south that runs from east to west within the open space area.
23. The properties vary in their layout, as some have rear gardens adjoining the open space area which is the case for the host dwelling. Others have front facing elevations overlooking the open space. The properties along the northern stretch are at a lower level within the land, with those along the south positioned at a higher level.
24. The boundaries of the properties largely consist of boundary walls, some with additional picket fencing on top. There are also others with green colour deer style enclosures of which are largely screened by established planting. Within the northeast section there is an area of tree canopies providing attractive screening that also add to the character of the open space.
25. The development proposes an overall enclosure that would be made up of an approximate 0.9 metre highwall with 1.5-metre-high piers and 0.6-metre-high picket fencing between the posts. The Council's Landscape Officer provided comment in this respect stating piers are not a predominant character of the area. Whilst this is true, in weighing up the overall harm because of the use of the land as residential garden and its proposed enclosure, it is not considered to result in such detrimental harm upon the area. This view is taken as the surrounding area is largely made up of brick walls and picket fences and the addition of piers would not create a demonstrable visual impact upon the character of the area and it is not considered this would create sufficient reason to refuse the permission on this basis alone.
26. The re-location of the boundary line would be set back by approximately 2.8 metres at its largest part which would provide a continuation of the boundary at 64 The Stables. The enclosure would curve around to provide a similar appearance to the previous line of the wall. This helps to soften its appearance within the wider area and allows the adjacent footpath to retain an open feel when entering the space. When viewing the total area designated as open space it is not considered by allowing the owner to incorporate an additional 4 metres (approximate) of land to form part of the residential curtilage of 66 The Stables would conceivably remove direct useable space, and the open space provision would still provide benefits to the local community.
27. The Council's Landscape Officer requests the area of land falling outside of the new relocated boundary line be restored to its former condition and a condition is imposed.
28. Given the limited scale of the retaining wall and that any implications would be of the applicant own property, it is considered in this instance necessary to request the applicant to submit additional information regarding the structural integrity of the retaining wall.

Amenity

29. The proposal is not considered to adversely impact upon surrounding amenity given the nature of the development and its siting. Whilst at an elevated position within the land, there is an adequate screening between the host properties rear garden and the front garden of 64 The Stables. The development is not considered to involve any significant loss of privacy and amenity for the residents of neighbouring properties. This is also considering separation distances, boundary treatments and the orientation to neighbouring properties.
30. However, it is recommended the permission remove permitted development rights for the erection of outbuildings to ensure no demonstrable harm occurs within this land visually and for the amenity of neighbouring residents.

Highway Safety

31. No objections were raised and it is not considered that the scheme adversely affects highway or pedestrian safety.

Residual Matters

32. Comments were received regarding the devaluation of property/sale, council tax, annual and charges/covenants, unfortunately these are not material planning considerations of the application and cannot be considered further. With regards to the lack of opportunity to provide comment prior to works being carried out, the applicant has submitted a retrospect application for consideration and the opportunity to provide comment has been carried out.

CONCLUSION

33. It is recommended that the application be Approved with Conditions for the reasons specified above.

Director of Finance, Development and Business Services
Contact Officer Jade Harbottle Telephone No 01642 528716

WARD AND WARD COUNCILLORS

Ward	Northern Parishes
Ward Councillor	Councillor John Gardner

IMPLICATIONS

Human Rights Implications:

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

Community Safety Implications:

The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report

Background Papers

Stockton on Tees Local Plan Adopted 2019

Supplementary Planning Documents

SPD1 – Sustainable Design Guide - Oct 2011

SPD2 – Open Space, Recreation and Landscaping - Dec 2009/2014