

Appeal Decision

Site visit made on 30 August 2016

by Roy Merrett BSc(Hons) DipTP MRTPI

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

Decision date: 22 September 2016

Appeal Ref: APP/H4505/D/16/3153382

10 Grassbanks, Leam Lane Estate, Gateshead NE10 8DU

- 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 Anthony Dawson against the decision of Gateshead Council.
 - The application Ref DC/16/00256/HHA, dated 17 February 2016, was refused by notice dated 4 May 2016.
 - The development proposed is fencing to the rear of garden adjacent to the highway.
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Decision

1. The appeal is allowed and planning permission is granted for fencing to the rear of garden adjacent to the highway at 10 Grassbanks, Leam Lane Estate, Gateshead NE10 8DU in accordance with the application Ref DC/16/00256/HHA, dated 17 February 2016 and subject to the following condition:-

- 1) Unless within 1 month of the date of this decision a scheme for colouring the part of the fence facing the highway is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority's approval, the fence shall be removed.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Procedural Matter

2. The development has already been carried out.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the street scene.

Reasons

4. The area is characterised by the backs of residential properties facing onto a T-shaped cul de sac. Rear gardens and yards adjoin the edge of the highway
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with boundary enclosures constructed in a variety of designs. However in general the enclosures comprise low brick walls and pillars with hedging or fencing in between.

5. The proposed fencing and gates are relatively tall in comparison to the enclosures at the neighbouring properties. In addition, where they have been used, hedges present a positive visual alternative to the otherwise hard edges of enclosures separating private properties from the highway.
6. However I noted during my visit that there were a number of examples of properties with tall fences similar in scale and design to the proposal. In this regard the proposal would not upset any sense of visual uniformity in the street scene or appear obtrusive. Furthermore there are a number of garden outbuildings visible from the street that vary in scale and appearance. These structures tend to draw the eye and further dilute any strong sense of visual uniformity along the highway boundary.
7. The key feature distinguishing the appeal fence as it faces the highway from other tall fences in the cul de sac is that it has not been stained in a similar dark colour. This serves to make the enclosure unnecessarily prominent. However a condition could be imposed requiring the structure to be stained in a suitable colour in order to bring it more in keeping with its surroundings.
8. For the above reasons I conclude that the development would not result in harm to the character and appearance of the street scene. As such it would not conflict with Policy CS15 of the Gateshead and Newcastle Core Strategy and Urban Core Plan 2015, Saved Policy ENV3 of the Gateshead Unitary Development Plan 2007, the Council's Household Alterations and Extensions Supplementary Planning Document 2011 and the National Planning Policy Framework insofar as they seek to promote good design and for development to respond positively to local character and distinctiveness and take into account the scale, design and materials used on similar boundaries in the area.

Condition

9. A condition requiring the part of the fence facing the highway to be appropriately coloured is required to protect the character and appearance of the area.
10. The purpose of the condition is to require the appellant to comply with a strict timetable for dealing with the colouring of the fence which needs to be addressed in order to make the development acceptable. The condition is drafted in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matter because the development has already taken place. The purpose and effect of the condition is therefore to ensure that the development authorised by the grant of planning permission may only be retained if the appellant complies with the specified requirements.

Conclusion

11. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should succeed.

Roy Merrett

INSPECTOR