
Appeal Decision

Site visit made on 3 October 2016

by Andy Harwood CMS MSc MRTPI

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

Decision date: 28 October 2016

Appeal Ref: APP/J4525/W/16/3154058

Public land adjacent to 106 Clovelly Road, Hylton Castle, Sunderland SR5 3LW

- 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 Mrs Alexandra Graydon against the decision of Sunderland City Council.
 - The application Ref 15/02153/FUL, dated 20 October 2015, was refused by notice dated 11 January 2016.
 - The development proposed is transferring land from public use to private garden.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of open land to private garden and erection of boundary fence at the public land adjacent to 106 Clovelly Road, Hylton Castle, Sunderland SR5 3LW in accordance with the terms of the application, Ref 15/02153/FUL, dated 20 October 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 'Site Location Plan', 'Proposed Fence Panel size 106 Clovelly Road' and the 1:500 'Gentoo' ownership plan.

Procedural Matters

2. I have used the description above as set out on the planning application form. However the transfer in ownership of land is not an act of development and the Council altered the description referring to the change of use of the land which is more appropriate. I have therefore reflected that description within the formal decision. I have also altered the address to more accurately reflect the location adjoining No 106 Clovelly Road.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area surrounding the land.

Reasons

4. The appeal site is an area of land between the existing fencing at the rear garden of No 104 Clovelly Road, the side of appellant's dwelling at No 106 and
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to the rear of a row of garages. The garages are alongside a turning head with the footpath running alongside them, the site and the fenced off rear gardens of nearby dwellings to another open space and turning head.

5. The site is an open area alongside the path and it does provide some openness around it. The path is otherwise enclosed by close boarded garden fences. However the area is tucked away in a position that is only overlooked by some rear and side windows of adjoining dwellings. The area is not in view from the main active frontages of dwellings or estate roads and the benefit of this to the street scene is very limited. The appellant refers to incidence of anti-social behaviour on the land. It is also used as an informal rubbish dump at times. These problems may be due to the lack of surveillance over the space. Allowing the area to be annexed to the garden of No 106 would overcome some of these concerns for all adjoining neighbours.
6. Fencing off the area to match the height of adjoining fences would enclose the footpath up to the backs of the garages. The existing fencing along the footpath is around my head height and the proposal would match this. It would make the footpath a little darker but only for a short additional distance. It would not have a substantial tunnelling effect in my opinion. A small area of open space would be retained alongside the garages in a more prominent position retaining some openness at the entrance to the footpath.
7. The proposed development would respect the qualities of the surroundings and would not have a serious adverse effect on the amenity of the area. In relation to the main issue the proposal would have an acceptable effect on the character and appearance of the surrounding area. This would comply with Policies B2, B3 and EN10 of the City of Sunderland Unitary Development Plan, adopted 1998. The proposal would constitute good design and would therefore comply with the advice within the National Planning Policy Framework.

Other Matters

8. I have considered this proposal upon its merits. Other proposals coming forward would have to be judged on their own merits as well. I do not consider that my conclusion in this case would cause a precedent.
9. I have attached the standard time limit condition and another specifying the relevant drawings as this provides certainty that the development will be implemented as proposed.

Conclusion

10. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

A Harwood

INSPECTOR