
Appeal Decision

Site visit made on 2 October 2019

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2019

Appeal Ref: APP/X1355/W/19/3224074

Land adjacent to 41 Carrowmore Road, Parkfields, Chester-le-Street, County Durham DH2 3DY

- 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 N Fawcett against the decision of Durham County Council.
 - The application Ref DM/18/02961/FPA, dated 27 September 2018, was refused by notice dated 21 December 2018.
 - The development proposed is change of use of public open space to domestic curtilage.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect on the amenity value of the area.

Reasons

3. The proposal would result in the change of use of land to a private garden. The piece of land is part of a wider area that is grassed and accommodates numerous trees. It forms an amenity area that although not publically owned, is available for use by the public and I understand that it is used for recreation, particularly by dog walkers. It generally contributes to the openness and greenery of the area. It is a positive feature offering benefits to both visual and physical amenity. It falls squarely within the definition of open space set out in the National Planning Policy Framework (Framework).
 4. Policy HP16 of the Chester-le-Street District Local Plan 2003 advises that many of the district's residential areas are open plan in character and include incidental open space, landscaping strips and verges, many of which contribute to the character and visual amenity of the area. It expects that proposals to change the use or enclose them should have regard to the effect on the residential amenity and character of the area. The policy generally accords with the design and amenity requirements of the Framework and can be afforded considerable weight.
 5. Creating a private garden on this part of the overall area of open land would reduce the area physically available for public use. This would limit its informal
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- use and reduce its function for those that use it. This is a matter that weighs significantly against the proposal as it would reduce overall residential amenity.
6. Preventing public access to this section of the open space would be likely to reduce the anti-social behaviour that has been reported by the appellant. This would improve the appellant's residential amenity and I am mindful of the requirements within the Framework to achieve healthy and safe places. The area that would remain in public use is more directly overlooked. Its greater surveillance may allow for better informal policing of it by the neighbouring residents. As no concerns have been raised with regard to the current use of the more central area, this supports this assessment. Reducing anti-social behaviour has to be considered as a public benefit overall and this should be considered alongside the more direct benefit to the appellant. The potential reduction in anti-social behaviour weighs in favour of the proposal and gains support from the Framework. The proposal would also bring the private benefit of a larger garden to the appellant but I can afford this only very limited weight.
 7. It is proposed that the area be enclosed initially by a post and wire fence. This would detract from the open character of the area and would not screen any alterations within the new garden. In the short term therefore, the proposal would result in harm to the open and uniform character and appearance of this amenity land and the wider area.
 8. It is proposed that an evergreen hedge be planted and maintained along the new boundary. When mature, this would provide a more attractive enclosure than the existing palisade fence. It would however be a more prominent feature that would reduce the openness of this space. The palisade fence is not prominent in most views and its appearance could also be improved by similar planting adjacent to it. I accept that there is no indication that such planting is likely but overall, I am not satisfied that in the longer term, even if the hedge flourishes and is well maintained, there would be any significant benefits to the character or appearance of this area.
 9. I have additional concerns with regard to the use of the land. No controls have been offered with regard to how the garden area would be used. The erection of buildings could be controlled by condition and this would be necessary. However, the introduction of general paraphernalia associated with gardens would be more difficult to control. Given the appearance of the appellant's property at present, I have no doubt that the hedge and garden would be maintained to a high standard. However, this level of positive management cannot be assured into the future should the appellant move on.
 10. Reference is made to the garden of the property at the opposite end of this landscaped area to the west. I am informed that this was historically allowed to be changed from open space to garden. What that area of land was formally like and the considerations that led to its enclosure are not entirely clear so I cannot assume that these cases are directly comparable.

Conclusions

11. The potential reduction of anti-social activity in the vicinity would be a private benefit but also must be considered as a positive public benefit that I afford considerable weight. However, on balance, I consider that the harm from the

reduction in public access to this area would outweigh this benefit. The development would also result in short term harm to the character of the area which also weighs against the proposal. Even if the land and a mature hedge were maintained in a positive manner in the future, I am not satisfied that its planned appearance, compared to its current character and appearance, would be a benefit that offers significant weight in favour of the proposal. I am concerned that in the long term, the proposal may result in additional harm if the hedge and garden were not adequately maintained.

12. Overall, reducing the size of this open area would not be a positive step, particularly with regard to the amenity it offers to the public. I am not satisfied that the proposal adequately takes into account the residential amenity and character of the area and as a result it would be at odds with policy HP16. Whilst I have had regard to all the issues raised by the appellant and I accept that there are some matters that weigh in favour of the proposal, particularly the benefits with regard to reducing anti-social behaviour, these are not sufficient to outweigh my concerns. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR