The Planning Inspectorate

Appeal Decision

Site visit made on 22 October 2019

by Sarah Manchester BSc MSc PhD MIEnvSc

an Inspector appointed by the Secretary of State

Decision date: 6th November 2019

Appeal Ref: APP/X1355/W/19/3234365
29 Hopper Terrace, Shotton Colliery, County Durham DH6 2HH

- 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 Paul Daws against the decision of Durham County Council.
- The application Ref DM/18/03497/FPA, dated 13 November 2018, was refused by notice dated 14 February 2019.
- The development is change of use of open space to garden and erection of fencing and decking.

Decision

1. The appeal is allowed and planning permission is granted for a change of use of open space to garden and erection of fencing and decking at 29 Hopper Terrace, Shotton Colliery, County Durham DH6 2HH, in accordance with the terms of application ref: DM/18/03497/FPA, dated 13 November 2018, subject to the following conditions:

   1) The development hereby permitted shall be carried out in accordance with the approved location plan.

   2) The close-boarded fence hereby approved shall not exceed a height of 0.9m and no part of the fence shall exceed 1.3m.

Procedural Matters

2. The application sought permission for a change of use of land that was originally open space but has now been incorporated into the garden of No 29. I have therefore determined the appeal on the basis that retrospective permission is sought for the change of use of the land which has already been implemented.

3. The Council altered the description of the development from 'extra garden space for parking and decking' to 'change of use of open space to garden (retrospective) and retention of fencing and decking'. The appellant has not included a description of the development in the appeal form. Notwithstanding, I consider that the Council's form of wording is a more accurate description of the scheme and I have therefore adopted it in the banner heading above.

4. In support of the application, the Council accepted a location plan together with photographs of the scheme which have been annotated with the dimensions of the fencing and the decking. In reaching my decision, I have therefore had regard to the submitted plans and photographs and my observations during my site visit.

5. The planning application form is not dated. However, the appellant has given the date of the application as 13 November 2018 in the appeal form. I have therefore used the date of the application given by the appellant in the banner heading above.

Main Issue

6. The main issue is the effect of the change of use of the land on the character and appearance of the area.

Reasons

7. The appeal site is a small area of land on the corner of a road junction adjacent to 29 Hopper Terrace. It is in a residential area characterised by regularly arranged properties of similar styles and ages. Properties are set back from the road behind front gardens with low boundary treatments including fences, walls and hedgerows. There is a large area of public open space on the opposite side of the road to No 29. The consistent building lines, low boundary treatments and large public open space result in an open character and appearance to the street scene and the area.

8. The appeal site has been incorporated into the garden of No 29 and an area of decking has been created for the purposes of sitting out. The land has been enclosed by low timber fencing with a trellis top.

9. The location plan and the photographs of the appeal site before the change of use was implemented illustrate that it was a relatively small and angular parcel of land. It did not relate well to the smooth wide curves of the road junction or to the adjacent properties and their boundaries. By virtue of its small size and relationship to the road and taking into account the significantly large area of open space nearby, it would not have provided any significant recreational benefit to the community. Moreover, it did not significantly soften the appearance of the built environment or provide a visually attractive break in development.

10. I accept that there are other small and unenclosed pieces of land on corner plots elsewhere in the area. Nevertheless, the majority of corner plots appear to be fully enclosed within gardens. In this respect, there is little before me to demonstrate that the appeal site contributed to a network of open space. Therefore, although I acknowledge that open space in residential development can contribute to the character and appearance of an area, in this case I am not persuaded that the appeal site made a positive contribution to place-making.

11. The close-boarded part of the fence is similar in height to the low boundary fences and walls that characterise the area. While the trellis fence top is not typical, it is open and it is not visually prominent. Moreover, it is not discordant in the context of the somewhat variable boundary treatments that surround the road junction. Therefore, the fence is not out of keeping with nearby boundary treatments and it is not incongruous in the street scene.

12. While the fence is immediately adjacent to the footway, the corners of the road junction are chamfered and the footway widens as it sweeps around the junction. With the exception of the large open space opposite No 29, other corner plots at the junction similarly have low boundary treatments adjacent to the footway. Therefore, the fence does not result in any significant loss of

openness or sense of enclosure to the street scene. Moreover, while the deck is adjacent to the boundary fence, it is not prominent or visually obtrusive and it does not result in a loss of openness to the street scene.

13. Therefore, I conclude that the change of use of the land does not harm the character and appearance of the area or residential amenity. As such, it does not conflict with Policies 1 and 35 of the District of Easington Local Plan 2001 which require, among other things, that development is of a high standard which relates well to its surrounding, reflecting the scale and character of the area, and avoiding serious effects on amenity.

Other Matters

14. I appreciate that the Council provided pre-application advice to the Housing Group in 2009 to the effect that a change of use of the land, including fencing, would be strongly resisted. There is also evidence that the Council attempted to engage with the Housing Group during the time that the application was being considered. However, the Planning Practice Guidance is clear that pre-application advice is not binding and it cannot pre-empt the democratic decision making process.

Conditions

15. In the event that the appeal was allowed, the Council has suggested a condition specifying the plans, even though only a location plan was submitted with the application. However, as set out above, the Council additionally accepted photographs in support of the application which have been annotated with dimensions for the fence and deck. As the height of the fence has been a determinative factor in my assessment of the scheme, I consider that this should be controlled by the imposition of a condition restricting its height in order to protect the character and appearance of the area. I have imposed a condition accordingly.

Conclusion

16. For the reasons set out above, I conclude that the appeal is allowed and planning permission is granted, subject to conditions.

Sarah Manchester

INSPECTOR