



Appeal Decision

Site visit made on 8 October 2019

by M Seaton DipTP MRTPI

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

Decision date: 18 November 2019

Appeal Ref: APP/H0738/W/19/3234116

Land to the Rear of 48 Holme Land, Ingleby Barwick, Stockton on Tees, TS17 5FB

- 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 Jayne Wilkins against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 19/0927/COU, dated 23 April 2019, was refused by notice dated 19 June 2019.
 - The development proposed is a change of use from open space to residential garden and erection of 2 metre high fencing.
-

Decision

1. The appeal is allowed and planning permission is granted for a change of use from open space to residential garden and erection of 2 metre high fencing at Land to the Rear of 48 Holme Land, Ingleby Barwick, Stockton on Tees, TS17 5FB in accordance with the terms of application Ref 19/0927/COU, dated 23 April 2019, subject to the conditions attached in the Annex.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

3. The appeal site comprises an irregularly shaped parcel of land located immediately adjacent to the west of the boundary of the rear garden and curtilage of No. 48 Holme Land. The land on appearance currently forms part of the structural landscaping set-back from, but adjacent to a substantial roundabout junction between Queen Elizabeth Way, Myton Way and Lowfields Avenue. The land accommodates a mix of planting which screens the existing boundary which is defined by a timber fence.
4. The Council's concerns centre on the loss of the area of open space and buffer planting as having an adverse effect on the wider character and appearance of the area. A recent audit of greenspace provision in Ingleby Barwick has been referred to which has identified an overall deficit in the area, which the loss of the green amenity space would only serve to exacerbate.
5. I have carefully considered the Council's case with particular reference to Policy ENV 6 of the Stockton-on-Tees Borough Council Local Plan Adopted 30 January 2019 (the Local Plan), and the various criteria set out within Policy ENV6(3) as

highlighted by the Council in their submissions. I have also had regard to Policy ENV5(7) which seeks to protect trees, woodlands and hedgerows which are important to the character and appearance of the local area.

6. In assessing Policy ENV6, I acknowledge that the overall objective of this particular section of the policy is to protect and enhance open space throughout the Borough to meet community needs and enable healthy lifestyles. In this regard, I note that whilst access to the appeal site is not restricted, as a consequence of the density of the planting the site is not readily accessible and does not conceivably provide any direct usable benefit to the local community. On the basis of my observations, its value is essentially derived from the visual relief provided by the existing planting from the visually harder developed edge that the boundary fencing would result in if unmitigated. I do therefore accept that a functional band of planting to meet this function does provide some community benefit from a visual perspective.
7. I note that the appellant does not consider that the erection of timber fencing in this location would amount to a visual departure from the character of the existing area, which on the basis of my observations of the existing boundary treatment along Lowfields Avenue, I would in part accept.
8. Even allowing for the seasonal nature and variation of the visual screening provided by existing planting, the erection of visually unmitigated close-boarded timber fencing along the Queen Elizabeth Way boundary would result in the introduction of a visually obtrusive feature in this location. However, the appellant accepts that a requirement for a scheme of soft planting to mitigate visual impact would be reasonable, and despite the reduced depth of any resultant planting, I would agree that a suitable scheme of landscaping and planting would quite adequately ameliorate any adverse visual impacts of the extended curtilage and fencing.
9. I have had regard to the appellant's contention that the Council's apparent willingness to dispose of the land is indicative of the land being surplus to requirements. However, whilst the Council may not wish to retain ownership of the parcel of land, it does not automatically follow that the land is surplus to its original purpose from a planning perspective, which would be a separate consideration. In this respect there is no compelling evidence before me that the land is surplus to requirements in the context of the policy, and I accept that it would no longer be ancillary to the existing open space or provide for sports or recreational provision.
10. However, I am nevertheless satisfied that subject to the imposition of appropriate landscaping, that the change of use to residential curtilage would not have an adverse effect on the immediate locality given that the loss of the amenity land would not impede its primary function to provide a visual screen from the development beyond. The opportunity to secure the retention and replacement of the landscaping along the boundary would ensure that the effect of the provision would remain consistent in terms of quality and the necessary quantity to allow the continuation of its role in screening the development. There is no evidence that there would be any significant harm to nature conservation interests.
11. For these reasons, I conclude that despite the identified conflict with some elements of Policy ENV6 of the Local Plan, the proposed development would

adequately safeguard the character and appearance of the area, and would also not conflict with Policy ENV5 of the Local Plan.

Other Matters

12. In addition to the main issue related to the effect on the character and appearance of the area, the Council has expressed particular concern over the potential for the proposed development to set an undesirable precedent for future development. In this respect I have some sympathy for the Council's concern. However, I have not found on balance that the proposal would overall be in conflict with the Development Plan, and I am satisfied that the specific circumstances of this decision would continue to allow the Council to successfully resist development which would be harmful and not in accordance with the Development Plan.

Conditions

13. The Council has suggested conditions which it considers would be appropriate were the appeal to be allowed. I have considered these in the light of the guidance on conditions set out in the National Planning Policy Framework. In addition to conditions specifying the timeliness of the commencement of development and the identification of plans, I am satisfied that conditions related to the provision of soft landscaping, and clarification of proposed site levels are reasonable and necessary in the interests of safeguarding the character and appearance of the area. These conditions are appropriately set out as pre-commencement conditions, and therefore in accordance with the requirements of Section 100ZA(5) of the Town and Country Planning Act 1990, the appellant has confirmed written agreement to the imposition of these conditions.
14. In respect of the means of enclosure, the appellant has already clarified the intention that it would comprise close-boarded fencing, which would be consistent with existing fencing in the vicinity and would in any event be partly screened by soft landscaping. I do not therefore consider it necessary to require the provision of further details of means of enclosure and have therefore omitted this condition.

Conclusion

15. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

M Seaton

INSPECTOR

Attached – Annex – Conditions

Annex

Conditions

- 1) The development hereby permitted shall begin not later than three 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, Drawing No. RC01 (Existing & Proposed Elevations), Drawing No. RC02 (Existing & Proposed Floor Plans), and Drawing No. RC03 (Existing & Proposed Parking Layout).
- 3) No development shall commence until full details of Soft Landscaping has been submitted to and approved in writing by the Local Planning Authority. This will be a detailed planting plan and specification of works indicating soil depths, plant species, numbers, densities, locations inter relationship of plants, stock size and type, grass, and planting methods including construction techniques for pits in hard surfacing and root barriers. All works shall be in accordance with the approved plans. All existing or proposed utility services that may influence proposed tree planting shall be indicated on the planting plan. The scheme shall be completed in the first planting season following commencement of the development and the development shall not be brought into use until the scheme has been completed to the satisfaction of the Local Planning Authority.
- 4) Details of the proposed site levels shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The development shall be carried out in accordance with the approved details thereafter.