



Appeal Decision

Site Visit made on 13 January 2021

by A M Nilsson BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 February 2021

Appeal Ref: APP/W4515/W/20/3261333

22 Longstone Court, Killingworth NE12 6SU

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 Martin Sanderson against the decision of North Tyneside Council.
 - The application Ref 19/01597/FUL, dated 29 November 2019, was refused by notice dated 21 April 2020.
 - The development is the change of use from open space to form part of garden.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development has been undertaken. I am therefore considering the appeal retrospectively.
3. Both parties have commented that the adjoining property, 20 Longstone Court, also appear to have extended their garden into the designated area of open space in a similar manner to the appeal development. I am only, however, required to determine the appeal before me as it relates to the appeal site.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the area with regard to its designation as open space.

Reasons

5. The appeal property is a two-storey semi-detached dwelling. It is located in a court style residential street of similar properties where one of the characteristics of the wider area is its small pockets of open space.
6. The land to which the appeal relates is located to the rear of the property adjacent to a footpath that leads to the underpass beneath the road. It forms part of a corridor of open space that leads from the underpass and is replicated on both sides of the underpass. The Council comment that it is allocated in the North Tyneside Local Plan (2017) as forming open space and part of a wildlife corridor. When ascending the footpath from the underpass, the site is prominently located on the corner of the main recreational route and a footpath that leads into Longstone Court.
7. Due to its location, forming part of a corridor of open space that runs, for the most part, alongside the recreational route, the appeal site plays a significant role in contributing to the open character and amenity of the area. This is

demonstrated in the submitted evidence by way of an aerial photograph showing the space prior to the development taking place. By changing the use of the space to a private garden and enclosing it with high fencing prohibits this role from being undertaken and creates an enclosed area where the fencing appears dominant and oppressive.

8. Whilst each application and appeal must be treated on its individual merits, allowing the appeal could be used in support of such similar schemes. I consider that this is not a generalised fear of precedent, but a realistic and specific concern given the shared characteristics with similar properties in the area. Allowing this appeal would make it more difficult to resist further planning applications for similar developments, and I consider that their cumulative effect would contribute to an overall harm to the wider area which I have described above.
9. I therefore conclude that the development has an unacceptable impact on the character and appearance of the area with regard to its designation as open space. It is contrary to Policies DM5.2, DM5.3 and DM6.1 of the North Tyneside Local Plan (2017) which seek to protect areas of green space and encourage good design.
10. The development is also contrary to the Design Quality Supplementary Planning Document (2018) which outlines that new high-level boundary treatments on corner sites, which include longer sections of fencing, are detrimental.
11. It is also contrary to Chapter 8 of the National Planning Policy Framework (2019) which seeks, amongst other things, the protection of open space.

Other Matters

12. The appellant considers that the Council have not been consistent in their decision making and have referred to other examples in the surrounding area including the Edgemount and Greenacres estates. I do not have full details of the planning background of these examples. Their presence, and the lack of any enforcement from the Council, do not outweigh the harm I have identified in relation to the appeal development.
13. The fact that the neighbouring property may have undertaken a similar development without enforcement action from the Council does not provide a reason in which to allow the appeal. Either way, I am not presented with the full background as it relates to the neighbouring property from either party in that particular case. If the Council have failed to respond to matters raised, these should be pursued outside the confines of this appeal.
14. I acknowledge that the possible lack of enforcement action by the Council against other perceived similar breaches of planning control may feel unfair to the appellant. However, this is not a reason to allow the appeal.
15. The appellant has referred to a lack of maintenance of the land and the occurrence of dog fouling. They have also referred to a cessation of other anti-social behaviour incidents since undertaking the work. The lack of maintenance does not lead me to conclude that the land should be removed from its open space use and I observed on my site visit that similar areas of open space were not in such a poor condition that would support their development. The cessation of anti-social behaviour incidents following the development weighs

moderately in favour of the development, however I am not presented with substantive evidence on these matters and they do not outweigh the harm I have identified. Additionally, there are likely to be alternative ways of addressing matters relating to maintenance and anti-social behaviour, whilst retaining the open space.

16. Reference has been made to the one-way system adopted by the neighbouring primary school in relation to the current pandemic and that this has resulted in an increase in use of the footpath. I am not persuaded that the development contributes to keeping the foot flow moving, helps people keep their social distance once they leave and discourages gathering in groups, as has been suggested.
17. I acknowledge the appellants worthy intentions in terms of promoting wildlife in the area, however I do not consider that this justifies removal of an area of open space into private residential garden, and such enhancements are likely to be achievable without the necessity to change the use of the appeal site.
18. The appellant comments that the land is not owned by the Council. I do not consider that in this instance, the matter of land ownership is pertinent to the main issue.

Conclusion

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

A M Nilsson

INSPECTOR