



Appeal Decision

Site visit made on 6 July 2021 by Ifeanyi Chukwujekwu BSc MSc MIEMA CEnv AssocRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2021

Appeal Ref: APP/X1355/D/21/3272624

48 Windermere Terrace, South Moor DH9 7QU

- 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 David Flipping against the decision of Durham County Council.
 - The application Ref DM/20/03468/FPA, dated 25 November 2020, was refused by notice dated 14 January 2021.
 - The development proposed is retention of shipping container within front garden with timber cladding and planting¹.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The description of the proposed development has been taken from the Council's decision notice, as this offers a more succinct description.
4. Also, as observed on visiting the site, the container has already been deposited in the front garden of the appeal site. I have based my assessment on what I witnessed on site and on the proposed plans which depict the proposal as it would appear when completed.

Main Issue

5. The effect of the shipping container with timber cladding and planting in the front garden upon the character and appearance of the host dwelling and surrounding street scene.

Reasons for the Recommendation

6. No. 48 is a two-storey end of terrace dwelling with single storey rear offshoot located on Windermere Terrace in South Moor, Stanley. By virtue of being an end of terrace plot, the appeal site also has some garden space to the side.

¹ Taken from Council's decision notice.

Windermere Terrace is characterised by rows of two-storey dwellings with single storey rear offshoots, which are set back from the road having long front amenity green spaces and smaller rear garden space. These have predominantly low boundary walls of brick material at the rear and timber at the front. There are some examples where a combination of brick, timber and mature hedging has been applied for higher screening. Nevertheless, the low fences create an appearance of a neat and unified street scene and a sense of openness across the rear gardens.

7. There are some properties which have timber sheds within the front gardens. However, these are of a small as compared with the container at the appeal site and substantial structures are generally absent from garden spaces. Windermere Terrace is bounded to the west and north by rows of detached sheds fronting allotments. Though there are some examples of containers or sheds constructed with other materials such as concrete and corrugated sheets, the sheds are predominantly of timber material. Also, my observation on visit to the site is that they are relatively of similar size and scale. Nevertheless, these are not placed within the gardens of the terraced dwellings and there is a distinct difference in character between the neatly maintained gardens and the allotments and run of garage plots on the opposite side of the street.
8. By virtue of its size, scale and steel material the container appears awkward within the front garden of the appeal site. The corrugated metal exterior and large bolted metal doors gives the structure a harsh industrial appearance and its elevated position increases its prominence and sets it at odds with the pleasant setting of frontages on the street. The proposed planting would take time to establish and would not mitigate any immediate visual harm. In any case, I am not satisfied that the proposed cladding and planting would adequately soften the impact. Given the size and prominence of the structure, they would only exacerbate its prominence which would detract from the generally open and pleasant front green amenity space and would be visually harmful to the appearance of the host dwelling and character of the street.
9. The appellant has quoted and excerpt from the Town and Country Planning Act 1990 (the Act) in contending that the siting of the container does not require planning permission as according to their interpretation, it does not constitute building operations as defined by the Act. The correct procedure for determining whether a development is lawful is to apply for a Certificate of Lawful Development under section 191 of the Act. It is not for me to reach a determinative finding on such a claim in the context of an appeal under section 78 of the Act. An application for planning permission has been made and determined by the Council and I am required to determine the appeal against that decision based on the planning merits of the proposal. Nonetheless, having regard to the substantial size of the structure and the likely degree of permanence, given that it would be difficult to move easily, particularly once cladding had been erected I am not convinced by the argument that it does not constitute a building operation. It would be akin to many other prefabricated garages and sheds that are commonly recognised as buildings.
10. The appellant has made reference to an approved garage in the front garden of 3 Rydal Avenue². Though this is at a nearby street with similar character, it

² Ref: 1/2009/0047/67074

does not form part of the street scene of Windermere Terrace. It is also of some vintage and might have been subject to different planning considerations at the time of approval. Nevertheless, from my observations the garage is less than sympathetic to the character of the area the existence of other similar development does not justify further harmful development.

11. Taking all the above points together, I find that the size, location and construction material of the container in the front garden of 48 Windermere Terrace harms the character and appearance of the host dwelling and surrounding street scene and those impacts could not be successfully mitigated through the imposition of conditions. Accordingly, there is conflict with the aims and objectives of policies 29 and 31 of the County Durham Plan (2020) and the National Planning Policy Framework which seek amongst other things seek to ensure that new development contributes positively to an area's character and is not visually intrusive and dominant.

Other Matters

12. The appellant contends that the development is required to provide safe storage for tools and materials while renovating the property and later as general storage of personal goods. Whilst I recognise his concerns in that regard the development was erected without planning permission and there is nothing to show that alternative, less harmful, options were considered that would enable the tools and personal goods to be safely stored in a manner that is not visually harmful. Having regard to those issues, I am not satisfied that the issue of security is a matter of sufficient weight to overcome the significant harm to character and appearance and non-compliance with design related policies.
13. I have also had regard to the suggestion that a temporary permission could be granted but am not convinced of the rationale for that suggestion. As noted above, it would not mitigate the harm in the short to medium term and there is no indication that the need for container would be temporary. Consequently, whilst the period of harm would be limited, so would the period of any benefit to the appellant and the overall balance of my conclusion is the same; the private benefit of added security would not outweigh the harm caused.
14. Paragraph 124 of the NPPF identifies that good design is a fundamental element of sustainable development and paragraph 130 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides plans or supplementary planning documents. Due to the inadequacies in the design of the proposal the development does not represent a sustainable form of development. Consequently, the proposal is contrary to the relevant policies of the development plan taken as a whole and the other considerations advanced do not outweigh the harm that has been caused.

Conclusion and Recommendation

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

Ifeanyi Chukwujekwu

APPEALS PLANNING OFFICER

Inspector's Decision

16. I have considered all the submitted evidence and the Appeal Planning Officer's report, and on that basis, I agree with the recommendation and shall dismiss the appeal.

Chris Preston

INSPECTOR