



Appeal Decision

Site visit made on 30 March 2022

by A Caines BSc (Hons) MScTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2022

Appeal Ref: APP/M4510/W/22/3292170

3 Kings Walk, Newcastle upon Tyne NE5 1UD

- 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 Kevin Young against the decision of Newcastle City Council.
 - The application Ref 2021/1434/01/DET, dated 12 July 2021, was refused by notice dated 12 November 2021.
 - The development proposed is described as “extension of dwelling house to rear and side, conversion of garage and conversion of land to east to garden with new fence to surround”.
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Decision

1. The appeal is dismissed.

Main Issue

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

Reasons

3. The appeal property is located within a large, planned housing estate. At the side of the property is an open grassed area with a mature tree. Although now apparently in the appellant’s ownership, this area forms part of the grassed margins alongside a dedicated pedestrian route and is part of the wider greenspace network running through the estate. It provides an open, spacious setting to the footpath experienced by pedestrians and cyclists along it, and positively contributes to the character and distinctiveness of the area. The existence of larger greenspaces elsewhere in the estate and the limited recreational potential of the site does not diminish its value.
4. The enclosure of the majority of this grassed area as proposed would be fundamentally harmful to the footpath’s open setting and to the area’s character and appearance. Furthermore, the height and positioning of the fence line would significantly diminish the quality and attractiveness of the pedestrian environment by reducing its spacious and green surroundings at this point. The appellant’s willingness to move the fence line inwards a little is noted, but would not overcome the fundamental harm arising from the enclosure of the land, and in any event, is not part of the scheme before me.
5. I have had regard to the Council’s concerns over setting a precedent for similar schemes within this estate. I consider that this is not a generalised fear of precedent, but a realistic and specific concern as I saw there were properties elsewhere on the estate which presented similar circumstances to the appeal site. Whilst I am mindful that each application and appeal must be treated on

its individual merits, allowing this appeal would make it more difficult to resist further planning applications for similar proposals within the estate, and I consider that their cumulative effect would exacerbate the harm that I have identified.

6. The Council did not raise any concerns over the proposed rear extension to the dwelling and I have no reason to disagree. However, this does not lead me to a different conclusion in respect of the harm arising from the scheme as a whole.
7. For the reasons given, I conclude that the development would unacceptably harm the character and appearance of the area, and so would be contrary to the open space protection aims of Policy DM30 of the Newcastle upon Tyne Development and Allocations Plan (2020) (the DAP). It would also be contrary to DAP Policies DM10, DM20 and DM23, as well as Policy CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne (2015), in so far as they require development to respond to local distinctiveness, improve the character and quality of an area, protect soft landscaping of amenity value, and provide safe and attractive pedestrian and cycle links/spaces.

Other Matters

8. The appellant has referenced several examples within the wider estate where narrow walkways are lined by tall garden fences. Even so, the existence of other examples that, in my view, are not a positive feature of the area is not a good reason to allow new development which would harm the character and appearance of the area.
9. The appellant states that the land and footpath have been inadequately maintained. However, the photographic evidence provided does not conclusively demonstrate that this is the case. Indeed, at the time of my inspection the grass had been freshly cut and the footpath was clear and suitable for its intended use. In any case, maintenance arrangements can change, and a lack of maintenance under the current arrangements would not justify permanently removing the land from its beneficial open space use. Any maintenance concerns, including in respect of trees on the land, should be taken up directly with those responsible.
10. I have noted the comments made in support of the proposal. However, this does not lead me to a different conclusion in respect of the harm that I have identified.
11. I have given consideration to whether it would be appropriate to issue a split decision allowing only the proposed extension, but I have opted not to as the relationship with the existing boundary fence is not clear.

Conclusion

12. Given the above, the proposal conflicts with the development plan as a whole and there are no considerations to outweigh this conflict. Accordingly, the appeal should be dismissed.

A Caines

INSPECTOR