



Appeal Decision

Site visit made on 7 November 2023

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th December 2023

Appeal Ref: APP/M4510/W/23/3327612

23 Linacre Close, Newcastle Upon Tyne, NE3 2FB

- 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 Yasir Abd Al Shakora against the decision of Newcastle Upon Tyne City Council.
 - The application Ref 2023/0343/01/DET, dated 1 March 2023, was refused by notice dated 19 May 2023.
 - The development proposed is described as "change of use from public space to private space garden and only to use it as a private space garden."
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of part of public open space to private garden and erection of 1.8m high fence (Class C3) at 23 Linacre Close, Newcastle Upon Tyne NE3 2FB in accordance with the terms of the application, Ref 2023/0343/01/DET, dated 1 March 2023, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Plan Ref: PO-20-100

Preliminary Matters

2. The description of development as stated on the application form is set out above. The Council on the decision notice has described the development as change of use of part of public open space to private garden and erection of 1.8m high fence (Class C3). This more accurately describes the development as shown on the plans and I have therefore considered the appeal on this basis.
3. The appeal scheme seeks retrospective permission for the development, which has commenced, and I was able to view the works which have already been undertaken in situ at my site visit. However, the appeal is also supported by 'Proposed Plans' which differ slightly from the partially constructed development I viewed. I have therefore considered the appeal on the basis of the submitted plans.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the area, including the loss of open space.

Reasons

5. The appeal site, No.23 Linacre Close comprises a two-storey, semi-detached property located on a corner plot. The existing property has already been

substantially extended to the side and rear and these boundaries adjoin an area of public open space. The surrounding area is predominantly residential, with a mix of two-storey and single storey dwellings, which are linked through areas of public open space and a network of footpaths.

6. Planning permission is being sought for the extension of the side and rear garden into a small area of public open space, with a 1.8 metre high, close boarded fence erected along the boundary. The width of the extended area is approximately 1.5 metres and extends the full depth of the plot. The development also involves the change of use of land from public open space to residential curtilage.
7. The fence is of a similar appearance to those found within the local area, including No. 18 Thornbury Close and No. 25 Linacre Close, which are visible from the appeal site. In this context, the position of the fence does not appear out of character with other plots which adjoin these areas of open space. When viewed from the front of the host property and the entrance to the public footpath from this part of Linacre Close, it forms a relatively narrow extension, that doesn't not appear unduly prominent or out of character with the width of side gardens associated with other dwellings in similar position within the surrounding area.
8. The ground floor of the side elevation of the property contains a number of large window openings which face towards the open space and footpaths. However, whilst I have had regard to the Council's concerns in relation to natural surveillance of these areas, these windows would be obscured even if the fence was relocated back to its original position. The footpaths are well lit and surrounded by houses, some of which including the appeal site have first floor windows overlooking the area. The first-floor windows of No.23 are unaffected by the fence and retain their views over the footpaths, similar to those of other plots which overlook these areas. Therefore, I find that the development does not result in a reduction in natural surveillance to these areas.
9. Even with the incremental extensions of No.23 into the adjacent areas of open space, it retains a large area of grass verge between the side and rear of the property and the footpath meaning that the open character of the footpath is retained. The area of open space is associated with a network of footpaths which connect various parts of the housing estate and wider area, and these routes would not be affected. Furthermore, visibility into and out of the areas of open space and footpaths is not adversely affected, nor does the development create a harmful sense of enclosure.
10. The amount of open space lost as a result of the development is very small, and therefore does not result in significant harm to the provision of open space within the local area, nor to the character and appearance of the area. I have had regard to the Council's concern in relation to setting a precedent for future applications to change the use of open space within the area. However, any future planning applications for the change of use of these areas of open space would be assessed on its own individual merits.
11. Consequently, I therefore find that the development does not harm the character and appearance of the area, including the loss of open space. The proposal would therefore be in accordance with Policy CS15 of the Core Strategy and Policy DM20 of the Development and Allocations Plan, which

require amongst other things, high quality design, which responds positively to local character. It would also accord with Policies DM20 and DM27 which expects development to provide safe, convenient, and attractive pedestrian links and not result in an adverse impact on green infrastructure provision.

Other Matters

12. I have had regard to the comments of the Council's Transport Team in relation to land ownership issues. However, this is a civil matter between the parties and is not a planning matter for my consideration.

Conditions

13. I have had regard to the statutory tests outlined in the Framework and the advice in the Planning Practice Guidance. As the development has already commenced, a standard time limit condition is not required. However, as the development has not yet been fully completed, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans.

Conclusion

14. For the above reasons, having regard to all matters raised, the development accords with the development plan as a whole. There are no material considerations which indicate that a decision should be taken otherwise in accordance with the development plan. Therefore, the appeal is allowed.

K Lancaster

INSPECTOR