



Appeal Decision

Site visit made on 27 March 2025

by R Gravett BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd April 2025

Appeal Ref: APP/X1355/W/24/3354752

Land to the South of 20 Bransdale, Spennymoor DL16 6SF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Gavin Barton against the decision of Durham County Council.
 - The application Ref is DM/24/00798/FPA.
 - The development proposed is change of use of open space into residential garden curtilage including erection of boundary fence.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address provided in the 'Site Location' section of the planning application form was '20 Bransdale, Spennymore, Durham DL16 6SF' but it is clear from the Location Plan that the site excludes the house itself, rather it relates to land adjoining its boundaries. I have therefore taken the address from the decision notice because it more accurately identifies the appeal site before me.
3. The description of the development in the banner heading above has been taken from the decision notice and the appeal form, because it is a more precise description of the proposal and removes superfluous text from that set out in the planning application form.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the area; and
 - a Norway Maple and a Lime tree, with particular regards to their longevity.

Reasons

Character and appearance

5. The appeal site comprises a strip of existing open space which runs parallel with the side and wraps around the rear boundary of 20 Bransdale (No 20), a semi-detached house. It is proposed to enclose this strip with a boundary fence which would enlarge the rear garden of No 20 and provide secure access along its flank elevation.
6. No 20 is situated at the head of Bransdale, a residential cul-de-sac, which forms part of a wider estate of well planned, predominantly detached and semi-detached

houses. The appeal site forms part of a larger section of grassed open space and network of footpaths which runs broadly east-west and connects those cul-de-sacs to the south of Carr Lane. I observed that this open space contributes very positively and significantly to the pattern of planned development in the area, and to its character and appearance. It provides some relief in the built form between houses, and houses and gardens, and affords relatively long, open views through parts of the residential estate. There are several mature trees within the area which also contribute to the overall open, verdant aspect of the area.

7. The proposal would result in the loss of a strip of existing open space which I acknowledge would be only around 1.2m in width and is part paved alongside No 20's flank elevation. However, although a reasonable width of grassed area would be retained, by extending from the flank of No 20 and enlarging the garden, there would nonetheless be a noticeable loss of open space in this location. In combination with the proposed boundary fence, this would increase the sense of enclosure along the footpath to the detriment of its open aspect. Further, the width of fence facing the cul-de-sac would restrict those existing long views along the open space through the estate and notably from the footpath linking Bransdale and the neighbouring cul-de-sac, Farndale. This would be to the detriment of both the planned pattern of development and the open character and appearance I have described.
8. The proposed boundary fence is shown on the 'Proposed Plan' as a 1800mm high timber close boarded fence, which I accept is very typical in residential areas. It would not appear out of keeping with the wider area which has a variety of boundary fences, including heights and finishes. The Council raise issue that the type of fencing has not been stipulated, but such details could reasonably be controlled by condition should the proposal otherwise be found acceptable.
9. Nevertheless, the proposal would result in the loss of open space which makes a valuable contribution to the residential estate, and any benefits associated with extending the garden of No 20 would be limited to the appellant's family.
10. Therefore, I conclude that the proposed development would cause significant harm to the character and appearance of the area. It would conflict with Policy 26 of the County Durham Plan (2020) (CDP) because it would result in the loss of open space and the benefits of the development do not clearly outweigh that loss or harm, nor has an assessment been undertaken which has clearly shown the open space or land to be surplus to requirements. It would further conflict with CDP Policy 29 which requires all development to contribute positively to an area's character, townscape and landscape features to help create locally distinctive communities.

Trees

11. To the south and west of the appeal site, within the grassed area of open space, is a Norway Maple and a Lime tree which both contribute positively to the verdant character and appearance of the area. The appellant's Arboricultural Impact Assessment (AIA) identifies that the existing boundary fence to the side and rear of No 20 is within the Root Protection Area (RPA) of these trees. The proposed boundary fence would also fall within these RPAs but would be closer to the trunk of both trees and would run across the visible surface roots of the Norway Maple. The AIA recommends hand dig in these areas, as well as adaptations to the fence

to avoid the trunk of the Norway Maple, and I am satisfied these would reduce any impact on the RPAs (of both trees) to an acceptable level.

12. I observed on my site visit that, despite not being in leaf, the canopy of both trees, but notably the Norway Maple, slightly overhang the existing garden of No 20. The proposed fence would extend much closer to these trees and consequently a higher proportion of the canopy would overhang the garden boundary. The Norway Maple and Lime are assessed in the AIA as being Category B1 and B1,2 respectively, so trees of a moderate quality with an estimated remaining life expectancy of at least 20 years.
13. I accept that these trees would remain on land controlled by the Council, and that regular, appropriate pruning can ensure long-term health. Nevertheless, there would be pressure from the existing or future occupiers of No.20 to remove or reduce the canopy spread of these trees, to prevent overshadowing, leaf drop or potential damage to the boundary fence. This pressure would be particularly felt in respect of the Norway Maple which would significantly overhang the new boundary fence, extending over the part of the rear garden of No 20 closest to the house. This pressure would also increase as the trees continue to grow, to the detriment of their long-term health and future, and the contribution they make to the character and appearance of the area.
14. I therefore conclude that the proposed development would cause significant harm to both the Norway Maple and the Lime tree, with particular regard to their longevity. It would conflict with CDP policies 39 and 40 which together, amongst other things, require that new development does not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or result in the loss of, or damage to, trees of high amenity value, unless the benefits of the proposal clearly outweigh the harm.

Other Matters

15. The appellant has drawn my attention to several examples in the vicinity of the appeal site where similar developments are considered to have taken place. I do not have the full details of all these examples but note the Council's evidence that some do not benefit from planning permission, or pre-date the adoption of the current CDP. It is also unclear from the information before me whether the examples form part of the planned pattern of development or are later alterations.
16. Nevertheless, I observed these examples on my site visit, and most are quite different in context to the appeal proposal, extending into a grass verge on a corner or adjacent a highway, rather than enclosing part of the network of open space and footpaths. Those examples at 49 and 114 Parkside and 19 Bransdale, which I consider are most comparable to the appeal proposals, point to a need to protect the loss of areas of open space, and offer very limited support or justification for the appeal proposal.
17. I note that the Council has raised no issue in respect of the effect on the living conditions of neighbours, highways, flooding or drainage, or on matters relating to ecology or biodiversity, subject to delivering a Biodiversity Net Gain. I am also aware that there is support for the proposal from one local resident, albeit this appears to be predicated on the basis that the proposal would alleviate parking congestion in the cul-de-sac. However, I find these to be neutral matters which do not alter my conclusions on the main issues above.

18. Finally, I acknowledge the appellant's criticisms regarding the planning process. However, this is not a matter which has a bearing on the appeal before me, and I have had regard solely to the planning merits of the proposal.

Conclusion

19. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, I conclude that the appeal should be dismissed.

R Gravett

INSPECTOR