



Appeal Decisions

Site visit made on 18 July 2025

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21st July 2025

Appeal A Ref: APP/J4525/C/24/3346104

1 Granville Drive, Houghton-le-Spring, Sunderland, DH4 4XB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Barry Brightman against an enforcement notice issued by Sunderland City Council.
 - The notice was issued on 31 May 2024.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of the land from open space to private garden, shown in more detail on Drawing 01 submitted as part of the below mentioned planning application (Ref: 24/00564/FUL). A copy of drawing No: 01 is attached titled "EN Plan 2".
 - The requirements of the notice are to (i) cease the use of the land as a private garden, (ii) remove hard surfacing and sub-base and reinstate the land to its condition prior to the unauthorised development, and (iii) reconstruct a boundary enclosure along the rear boundary of 1 Granville Drive, on the alignment shown by dashed line on the attached plan titled "EN Plan 2", of the same height, design and materials incorporated in the existing boundary enclosures bounding the rear garden of 1 Granville Road.
 - The period for compliance with the requirements is no later than two months.
 - The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 (as amended).
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Appeal B Ref: APP/J4525/W/24/3346100

1 Granville Drive, Houghton-le-Spring, Sunderland, DH4 4XB

- 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 Barry Brightman against the decision of Sunderland City Council.
 - The application Ref is 24/00564/FUL.
 - The development proposed is the change of use from open land to private garden including the erection of a boundary fence.
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Decisions

Appeal A Ref: APP/J4525/C/24/3346104

1. The appeal is dismissed, and the enforcement notice is upheld.

Appeal B Ref: APP/J4525/W/24/3346100

2. The appeal is dismissed.

Preliminary Matters

3. The National Planning Policy Framework was revised in December 2024 (the 2024 Framework). This replaces the previous version of the National Planning Policy Framework published in December 2023. The 2024 Framework has not materially changed in terms of the main issue that relates to Appeal B. It has not therefore

been necessary for me to seek comments from the main parties about the implications of the 2024 Framework.

4. In the banner heading above, and in respect of Appeal B, I have used the description of development from the Council's refusal notice rather than the appellant's application form, as it is more precise and succinct.

Reasons

Appeal A – ground (g) appeal

5. The appeal on ground (g) is that the period specified in the notice in accordance with section 173(9) of the Act falls short of what should reasonably be allowed.
6. The appellant considers that the two months compliance period is too short as a planning application for the same development has been refused and hence requests an extended compliance period to nine months so that the appeal made under section 78 of the Act can be determined. I have determined such an appeal below and therefore it is not necessary to extend the compliance period as requested by the appellant.
7. On the evidence that is before me, I find that a compliance period of two months strikes a reasonable and proportionate balance between bringing the unauthorised development to an end and affording reasonable time to carry out the requirements of the notice. Therefore, I conclude that the ground (g) appeal fails.

Appeal B – appeal made under section 78 of the Act

Main Issue

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

Reasons

9. The proposed garden extension to 1 Granville Road, including the erection of a new enclosing wooden fence, has already occurred on the land. It has been formed on land which forms part of Success Park. Prior to the development occurring, the land formed part of a segment of vegetation which lined the public pathway leading from Bradwell Way to Dunraven Close.
10. On my site visit, I was able to appreciate an otherwise pleasing consistency to the linear pattern of the fence lines to the rear of the properties in Granville Road, and, accordingly, a deliberately planned form of development relative to how the rear of the residential plots in Granville Road relate to Success Park. Indeed, prior to the fence being erected, I find that there was a pleasing balance and symmetry to the undeveloped nature of the greenspace either side of the public footpath running through this part of Success Park. In this regard, I find that the appeal land contributed positively and distinctively to the character and appearance of the area, and to the greenspace as a whole.
11. In the context of the above, the garden extension and fence is experienced as having a dominant and jarring impact in the environment, particularly when seen from the adjacent public footpath in Success Park. I find that the fence and garden extension unacceptably erodes the sense of undeveloped space within this part of Success Park and, owing to the position and height of the fence, it harmfully

protrudes into the undeveloped greenspace to the extent that it materially departs from the otherwise linear and well planned pattern of development that exists in terms of the relationship between the housing plots on Granville Road and the greenspace in this part of Success Park.

12. I acknowledge that the plans show that new shrubs would be planted in front the fence. This may soften the impact of the fence to some degree, although such vegetation would take some time to mature and may not endure forever. Moreover, this would not overcome the harm caused in terms of the loss of greenspace and owing to the erection of the fence given the adverse impact on the pattern of development in this area.
13. On the evidence that is before me, a case has not been made to justify the loss of the greenspace in accordance with the requirements of paragraph 4 of policy NE4 of the CS&DP. The appellant has commented that the land was previously overgrown (including brambles) and was not properly maintained by the previous owner, despite numerous attempts to try to resolve this matter.
14. The evidence indicates that the appellant now owns the land. Consequently, it can now be appropriately maintained by the appellant. It need not be an inevitable consequence that maintenance can only take place in conjunction with an extended garden and including the erection of a fence. This is not therefore a matter which justifies the loss of greenspace and/or the harm caused to the character and appearance of the area. In this context, I do not therefore find that a case has been made that the development has '*enhanced the quality*' of the greenspace.
15. The undisputed evidence is that the site falls within a ward where the Council's Greenspace Audit states that there is a below average provision of greenspace. While the appeal land may not have been used for a specific recreational purpose, it has nevertheless functioned as an area of public amenity space as part and parcel of the wider greenspace known as Success Park. Fencing off the land to form a private garden space does not provide the same undeveloped greenspace amenity function and value associated with use of this part of Success Park.
16. For the above reasons, I conclude that the development has caused significant harm to the character and appearance of the area and has resulted in an unjustified loss of greenspace in a ward where there is below average provision. Consequently, the development does not accord with the design and greenspace requirements of policies BH1 and NE4 of the CS&DP, and chapter 10 of the 2024 Framework.

Other Matters

17. The appellant has referred me to an appeal decision for the change of use of amenity land to residential in Wokingham¹. I do not have the plans that accompanied this planning application and, moreover, the development relates to a different area. I have considered this appeal on its individual planning merits and have exercised my own planning judgement based on the circumstances that prevail in terms of the appeal development. The referenced appeal decision does not alter or outweigh by overall conclusion below.

¹ APP/X0360/W/16/3163813

Section 78 Appeal Conclusion

18. For the reasons given above, I conclude that the development does not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, the appeal should be dismissed.

Overall Conclusions

Appeal A Ref: APP/J4525/C/24/3346104

19. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Appeal B Ref: APP/J4525/W/24/3346100

20. For the reasons given above, the appeal should be dismissed.

D Hartley

INSPECTOR