Planning Inspectorate

Appeal Decision

Site visit made on 17 December 2024 by J Reed MPlan

Decision by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2025

Appeal Ref: APP/A4520/D/24/3352337
7 Luss Avenue, Jarrow, Tyne & Wear NE32 4AR

- 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 Ashleigh Collie against the decision of South Tyneside Council.
- The application Ref is ST/0278/24/HFUL.
- The development proposed is described as erection of a wooden fence around the perimeter of the front garden of my property. This will be an extension to the existing wall, with the height being a maximum of 1.95m combined.

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. From my site visit I saw that the development had been completed. The development appears to be in accordance with what is shown on the submitted plans, although in any event I have dealt with the appeal on this basis of the submitted plans.

4. Since the application was determined, a revised National Planning Policy Framework (the Framework) was published on 12 December 2024. However, as any policies that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party. I have had regard to the latest version of the Framework in reaching my decision.

5. The Council are currently in the process of producing a new Local Plan, which is yet to be independently examined. At this stage, I afford it limited weight in my decision making.

Main Issue

6. The main issues are:

   1) The effect on the character and appearance of the area;

   2) the effect on highway safety with regard to pedestrians and

3) whether the personal circumstances of the appellant outweigh any harm in respect of the development.

Reasons for the Recommendation

Character and appearance

7. The appeal site is a two storey semi detached property occupying a corner plot fronting onto Luss Avenue and Glasgow Road. The area is mainly residential with other two storey residential properties adjoining the site.

8. The prevailing character of the area is that of openness with low brick boundary walls the dominant boundary treatment with intermittent examples of hedging and close board fences. Be that as it may the modesty of the majority of boundary treatments creates an open character and appearance with a sense of spaciousness.

9. The fence installed appears as a dominant, stark and unwelcoming visual barrier that fails to reflect the open character of its immediate surroundings, resulting in an uncharacteristic and incongruous feature in the street scene with a lack of visual permeability. By virtue of its height and design the fence is not readily assimilated into the prevailing character. Its prominence is further exacerbated by its dark material pallet appearing at odds with the surrounding boundary treatments.

10. There are limited examples of other timber fencing to boundaries in the local area. The examples evident are of various heights, with some referenced by the appellant as setting a precedent. However, I observed such examples to be limited in number and they do not represent a defining or prevailing positive characteristic boundary treatment in the surrounding area. In any event, I must consider the appeal scheme on its own planning merits, and I do not find the mere existence of similar fences in the locality, irrespective of their planning status and the lack of objections to them and the appeal scheme, to attract any significant weight in support.

11. In conclusion, the development would be harmful to the character and appearance of the area. Accordingly, the proposal would conflict with Policy DM1(A) of the South Tyneside Development Framework (2011)(STDF), the National Planning Policy Framework (The Framework) and the guidance set out in SPD9 the Council's Householder Development Guidance (2014). These seek, among other matters, for development to have an acceptable impact on local amenity and the built environment, and for development to demonstrate high and consistent design standards.

Highway Safety

12. The appeal property is located on a corner junction. The boundary treatment has been erected and possess a consistent height around the site aside from a gap serving the driveway. However, due to the siting, height and solid appearance of the boundary treatment visibility onto the highway in both directions of the driveway is obscured. As a result, motorists would have to blindly edge out onto the public footpath in order to gain an appropriate visibility of the highway which would be to the endangerment of pedestrian safety. This obscured pedestrian visibility splays create conditions that are detrimental to highway safety.

13. I therefore conclude that the development significantly harms highway safety. It is contrary to STDF Policy DM1(G), the Framework and the guidance set out in SPD9 of the Council's Householder Development Guidance (2014). These require, amongst other things, that all development shall make satisfactory and safe provision for pedestrians, cyclists, public transport, cars and other vehicles.

Personal circumstances

14. In determining this appeal, I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Disability is a relevant protected characteristic to which the PSED applies.

15. Supporting information has been provided that there is someone within the household that has a disability with additional needs. Details have been provided outlining how the enclosure of the front garden would provide a space to meet the needs outlined as such a member of the household has protected characteristics under the Equality Act

16. I have also considered the rights of the appellant under Article 1 of the First Protocol and Article 8 of the Human Rights Act 1998. Article 1 of the First Protocol states that every person is entitled to the peaceful enjoyment of their home. Article 8 affords the right to respect for private and family life. Dismissal of the appeal would interfere with the appellant's rights under both Article 1 of the First Protocol and Article 8. However, these are qualified rights, and any interference may be justified where it is in accordance with the law and is necessary in a democratic society, applying the principle of proportionality.

17. I acknowledge that the consequence of dismissing the appeal would have the potential to reduce the appellant's enjoyment of their garden. However, the harm I have identified to the character and appearance of the area and to highway safety is such that dismissal of the appeal would be a proportionate and necessary response that would not violate the appellant's rights under Article 1 of the First Protocol or Article 8. The protection of the public interest cannot be achieved by means that are less interfering of their rights.

Other Matters

18. The appellant outlines the benefits of the proposal to them, such as an increase in privacy and providing an appropriate environment for their pets. Whilst I do not doubt this is the case, this does not outweigh the harm identified regarding the main issues.

19. Details of how the development will improve security have been put forward by the appellant. The appellant has cited that there has been an increase in burglary and car thefts within the area. However, no evidence has been put before me demonstrating that the appeal site has been affected by any of the crimes highlighted. Also, it has not been demonstrated that the plot is especially vulnerable to such crime in comparison to neighbouring properties. Furthermore, there is also nothing before me demonstrating how the proposals would be a preventative measure if said crimes had indeed occurred at the appeal site. As a result, I give this limited weight.

Conclusion and Recommendation

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

J Reed

APPEAL PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

Ben Plenty

INSPECTOR