



Appeal Decision

Site visit made on 30 September 2019

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2019

Appeal Ref: APP/W0734/W/19/3226013

21 Park Road South, Middlesbrough TS5 6LE

- 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 Shazad Ali against the decision of Middlesbrough Borough Council.
 - The application Ref 18/0713/COU, dated 29 October 2018, was refused by notice dated 29 January 2019.
 - The development proposed is change of use of public grassed area to enclosed garden area. Erection of 1800 high solid boarded timber fence.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The name of the appellant on the planning appeal form differs from that stated on the planning application form. However, the appellant has confirmed that the name given on the application form was incorrect and I have proceeded on that basis as reflected in the above heading.
3. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
4. The Council's decision notice describes the appeal as being submitted on a retrospective basis. At the time of my site visit I saw that the land had been enclosed by a wooden fence. However, the plans submitted with the appeal show that the proposed fence would be set back from the footpath by 1.5m, and the fence as erected did not reflect this arrangement. For the avoidance of doubt, I have proceeded to determine this appeal on the basis of the submitted plans.
5. The Council's decision notice refers to the 'Acklam Park and Linthorpe Conservation Area'. However, based on evidence submitted with the appeal it is clear that the site is within the Albert Park and Linthorpe Road Conservation Area.

Main Issue

6. The main issue in this appeal is the effect of the proposal on the character and appearance of the area, with due regard to the Albert Park and Linthorpe Road Conservation Area.

Reasons

7. The appeal site is within the Albert Park and Linthorpe Road Conservation Area (CA), the significance of which derives from the Victorian public park and the immediate surrounding development which fronts onto the park. The site is in a prominent position adjacent to a road junction and adjacent to a substantial building. The property adjacent to the appeal site is bounded by brick piers supporting metal railings and gates which are of an ornate and modern appearance, but which also provide open views of the curtilage to the front of the building adjacent to the highway.
8. The proposed 1.8m high close boarded fencing would not reflect the design of the means of enclosure of the adjacent building or other properties within the CA. Enclosures adjacent to the highway within the CA and surrounding area are predominantly at a low level or of a design which maintains a relatively open aspect in views from the highway. In contrast, due to its design and height, the proposed solid wooden fencing would represent a stark and obtrusive feature within the street scene. Even in less prominent and sensitive locations than the appeal site, the prevailing material used for means of enclosure is brick rather than wood and the appeal proposal would therefore represent an incongruous feature in this area.
9. A number of comments raised locally express concern in relation to the principle of the loss of the open space. I am mindful that incidental open space such as the appeal site can make a valuable contribution to the landscaping and appearance of an area. However, the proposal would include a set back of the fence of 1.5m from the edge of the footpath which would enable a grass verge to be retained or the provision of planting. This arrangement would soften views of the site from the public realm and, when combined with a suitable means of enclosure, would mitigate for the loss of the open space. The appellant has confirmed that the land is in private ownership and I also note that the Council Officer's report indicates that the land is not formally designated in the development plan. On balance, I consider that the loss of the open space would not warrant the refusal of planning permission.
10. I note the appellant's comments and photographic evidence in respect of litter and car parking. However, the issues referred to by the appellant do not justify the inappropriate design of the means of enclosure and in this regard these matters do not weigh in favour of the proposal.
11. The appellant refers to fencing on a property on Westminster Road and I saw that wooden fencing had been erected around 124 Westminster Road near to the appeal site. However the fencing to the front of No 124 was lower than the appeal proposal and much of the extent of fencing to the side was set back from the highway. Moreover, No 124 is not within the CA. The circumstances of that site are therefore materially different from the appeal before me, which I have determined on its own merits.

12. Notwithstanding my conclusion with regard to the loss of open space, I conclude that the proposed fencing would be harmful to the character and appearance of the area and would fail to preserve or enhance the character and appearance of the CA. Whilst the harm to the CA would be less than substantial, there are no public benefits that would outweigh that harm. The proposal would therefore be contrary to Policies DC1, CS4 and CS5 of the Council's Core Strategy 2008 which seek to deliver high quality design and to protect and enhance historic heritage and townscape amongst other things. The proposal would also conflict with the National Planning Policy Framework which seeks to achieve well-designed places and to conserve and enhance the historic environment. The proposal would also be contrary to the advice of the CA Appraisal and Management Plan 2013 with regards to preserving and enhancing the CA.
13. For the reasons given above, and taking account of all material planning considerations, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR