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## Appeal Decision

Site visit made on 2 May 2025

by **J Symmons BSc (Hons) CEng MICE**

an Inspector appointed by the Secretary of State

Decision date: 5<sup>th</sup> June 2025

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**Appeal Ref: APP/W0734/W/25/3360766**

**5 Dell Close, Middlesbrough TS7 8JG**

- 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 Paul Grant against the decision of Middlesbrough Council.
  - The application Ref is 24/0445/COU.
  - The development proposed is change of use of open space to private garden including 1.8m high timber fence to front and side and 1.2m timber fence to the rear.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application is retrospective as the proposed development appears to have been mostly completed. From my site visit, the development appeared to be similar to that shown on the drawings refused by the Council. I have considered the appeal based on the drawings.

### Main Issues

3. The main issues in determination of the appeal are the effect of the development on the Green Wedge and Primary Open Space and on the character and appearance of the area.

### Reasons

4. Dell Close is within a predominantly residential estate. It is a short cul-de-sac with a mix of properties and frontages and to its end is Marton West Beck Valley and the Fairy Dell woodland.
5. The appeal site is the fence enclosed side garden and the planted area to the road at 5 Dell Close (No 5) which is located to the end of the cul-de-sac. The area was formerly a small open grassland area.

### *Green Wedge and Primary Open Space*

6. The main parties agree that the appeal site and the surrounding grassland are designated as 'Primary Open Space' and part of the 'Green Wedge' as shown on the Housing Local Plan Proposal Map 2014. I see no reason to disagree with this.
7. The development's garden retains some of the green character and openness of the former grassland area and, with the addition of the front hedgerow, a biodiversity net gain is achieved. However, with its enclosed form and greater sense of formality and domestication, the development is a significant deviation

from the naturalised and open aspect that existed when it was a grassland area and part of the adjacent Primary Open Space and the Green Wedge.

8. Notwithstanding that the development is small, it still adversely affects the visual amenity of the Primary Open Space and the Green Wedge, prevents public access to the appeal site's land and reduces the separation between the Green Wedge and No 5's former development boundary. It provides no replacement open space of a similar or improved area and quality. The development does not complement the function of the open space, positively contribute to it or provide any notable community benefits.
9. I appreciate that the development does not impact on the overall accessibility or green links of the open space and does not create an undue nuisance or disturbance to occupiers of neighbouring properties. However, these are neutral factors which do not justify or outweigh the harmful incremental loss of the open space that has occurred.
10. Reference is made that the development contributes and complements the function of the open space in a similar way to other enclosed gardens on Dell Close. However, due to the development's intrusive form, prominent end location and its relationship to the open space, it is not directly comparable to the other gardens and does not change my view on the adverse effects the development has.
11. Reference is also made to the 2019 outline planning application for three dwellings to the west of No 5. In this application, the planning officer recognised conflict with Middlesbrough saved Local Plan Policies E2 and E7, but considered the overall scale of the scheme did not have a significant impact on the overall purpose of the open space. However, as full details of the planning balance for this application have not been provided, and the scheme was significantly different to the development before me, I am not convinced that it is directly comparable. In any event, the application was both refused by the Planning Committee and at appeal. As such this does not change my view on the harm I have found to the open space.
12. In relation to the appeal (APP/W0734/W/19/3235859) for the above application, the appellant submits that the 'important visual transition' between the built form of Dell Close and the entrance to the Primary Open Space and the Green Wedge referred to by the Inspector continues to be provided by the development. However, in this regard the Inspector concluded that the scheme's resultant open space would not be of a similar or improved area and quality as required by Marton West Neighbourhood Plan (WMNP) Policy MW3. The development causes similar harm and also conflicts with this policy. It therefore harms the 'important visual transition'.
13. Consequently, the development would harm the Green Wedge and Primary Open Space. It would be contrary to Middlesbrough saved Local Plan Policies E2 and E7 and Policies MW1 and MW3 of the WMNP. These policies, amongst other matters, seek to safeguard the Green Wedge and Primary Open Space from development.

#### *Character and appearance*

14. Without the development, the typical mix of property frontages on Dell Close are open gardens and driveways. Some front boundaries have been landscaped with planting and hedging and some low height front and side boundary fencing exists. These modest features give the street an attractive, open and spacious aspect which allows pleasant views into and out of the open space.

15. Notwithstanding this, the development's 1.8-metre-high close boarded timber front and side fences are visually dominant in views from both the street and from the open space. They restrict views of the green character of the development's garden and the surrounding open space. While the fencing rounds off and aligns the end of the properties on Dell Close to a degree, it still appears as an incongruous feature that intrudes and harms the street view and open space views. Even with the front hedge which, once established, will provide some softening of the front fence's intrusion, the visual harm will not be addressed, and the hedge will not prevent the harm caused by the side fence.
16. While I appreciate that there are various examples of high boundary fencing and walling within the surrounding residential estate, these are not representative of Dell Close. Furthermore, from the limited information provided, the examples do not appear to have the same open space relationship that exists at the development. Indeed, while I saw some high fences and walls located to the back of the footpaths, enclosing gardens and beside green space, none were directly comparable to the development. The examples therefore do not change my view on the harm the development causes.
17. As a result of the above, the development is detrimental to the character and appearance of the surrounding area. It would be contrary to Middlesbrough Core Strategy Policies CS4, CS5 and DC1 and WMNP Policies MW3 and MW6 which, when read together, seek to secure developments which deliver a high-quality design that reflects and enhances the character and appearance of the area.

### **Other Matters**

18. There has been some support at the application stage from interested parties regarding the benefits the development has had in improving the appearance of the overgrown and untidy former grassland area, reducing dog fouling of the area and enhancing privacy and security. However, it would not be unexpected for a naturalised open space area to be overgrown and untidy in appearance. No compelling evidence has been presented to demonstrate the area was a 'wasteland' and 'eyesore' as claimed. Furthermore, no substantive evidence has been provided to show dog fouling was a significant problem in the area or that alternative and less intrusive options could not have been used to alleviate any such problems. Supporting evidence has also not been provided to show the area caused significant privacy or security issues. Overall, these raised benefits do not outweigh the harm caused by the development.

### **Conclusion**

19. For the reasons given above and having regard to the matters that have been raised, I conclude that the appeal should be dismissed.

*J Symmons*

INSPECTOR