



Appeal Decisions

Site visit made on 6 January 2026

by **R Merrett BSc(Hons), DipTP, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 January 2026

Appeal A Ref: APP/W0734/C/25/3359741

14 Sorrel Court, Middlesbrough TS7 8RZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mrs Satvir Singh against an enforcement notice issued by Middlesbrough Council.
- The notice was issued on 7 January 2025.
- The breach of planning control as alleged in the notice is Without planning permission, the enlargement of the original dwellinghouse by more than half its width, by the erection of a two-storey rear extension, erected against and melding with a single storey side extension ("the unauthorised development").
- The requirements of the notice are to a) Demolish the two-storey rear extension; b) Remove from the land the resulting material and debris, together with any plant, tools and equipment used to undertake the required step.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended).

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld (however attention is drawn to paragraphs 38 and 39 below).

Appeal B Ref: APP/W0734/C/25/3359743

14 Sorrel Court, Middlesbrough TS7 8RZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mrs Satvir Singh against an enforcement notice issued by Middlesbrough Council.
- The notice was issued on 7 January 2025.
- The breach of planning control as alleged in the notice is Without planning permission, material change of use of open (private) amenity land to residential garden use facilitated by the erection of timber close board fencing ("the unauthorised development").
- The requirements of the notice are to i) Cease the use of open amenity land (shown crosshatched black on attached plan) as garden associated with the residential use of the dwellinghouse at 14 Sorrel Court; ii) Demolish and remove from the land the close board fencing (indicated by a blue line on the attached plan) together with the fence posts, gate and gate posts.
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the grounds set out in section 174(2)(b) and (g) of the Town and Country Planning Act 1990 (as amended).

Summary of Decision: The appeal is allowed and the enforcement notice is quashed.

Appeal C Ref: APP/W0734/W/25/3359737

14 Sorrel Court, Middlesbrough TS7 8RZ

- 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 Ms Satvir Singh against the decision of Middlesbrough Council.
- The application Ref is 24/0451/FUL.
- The development proposed is Retrospective single storey extension to side, two storey extension to rear including extension to residential curtilage and associated boundary treatment.

Summary of Decision: The appeal is allowed in part and is dismissed in part as set out below in the Formal Decision.

Preliminary Matters

1. Appeal B includes ground (b), namely that the alleged development has not occurred as a matter of fact. However, the appellant's case is more specifically that the alleged material change of use has not occurred, the land always having been part of the appellant's garden. This amounts to a hidden ground (c) appeal, namely that there has not been a breach of planning control. I have thus dealt with Appeal B, later in my decision letter, in this context.
2. The enforcement notice to which Appeal B relates explicitly alleges a material change of use of open amenity land to residential garden use, facilitated by the erection of timber close board fencing [my emphasis]. It does not allege the erection of fencing as a separate act of operational development. For the avoidance of doubt this means that if the appeal succeeds in relation to the alleged material change of use, the notice could not then require the removal of the fencing, because the fencing is not targeted by the notice as an independent act of development. I am not satisfied that I would be able to amend the allegation accordingly, without resulting in injustice to the appellant.

Appeal C

Main Issues

3. The main issues are i) the effect of the two-storey rear extension and the curtilage extension and associated boundary treatment on the character and appearance of the host property and its immediate surroundings and ii) the effect of the two-storey rear extension on the living conditions of neighbouring residents, having particular regard to outlook.

Reasons

Character and Appearance

4. The appeal site comprises a modern two-storey detached dwelling, set in a corner location of a cul-de-sac, within an estate of similar residential properties. The cul-de-sac in which the appeal property is situated is characterised by dwellings that predominantly have open plan frontages, with open green space extending around the sides of other nearby corner plots.
5. The two-storey rear extension is relatively large in scale, extending across a substantial part of the rear elevation of the original dwelling. It is visible from public vantage points within the cul-de-sac, and from the nearby Stokesley Road, a main distributor route, adjacent to the north-eastern boundary of the estate.
6. However, its projection, at around three metres is relatively modest, and the uppermost part of the roof sits below the ridge line of the main dwelling. Furthermore, a marked change in ground level means the extension is towards the bottom of a slope in the cul-de-sac, and is most visible from more elevated positions therein. Whilst the extension can be seen from Stokesley Road, it is sufficiently offset not to draw the eye. In addition, the facing brick used is a good match for the original dwelling.

7. These factors all serve to mitigate the visual impact of the rear extension, which I find to be well integrated with, and appropriate in scale, rather than dominant or obtrusive, in relation to the host property and the wider street scene. I reach this finding also having regard to the resulting reduced area of the rear garden. I conclude the rear two-storey extension does not result in harm to either the character and appearance of the host property or its immediate surroundings. Accordingly, I conclude that it does not conflict with Policies CS5 and DC1 of the Middlesbrough Core Strategy 2008 (CS) or with the National Planning Policy Framework insofar as they seek to achieve a high quality of design.
8. I acknowledge that the rear extension is not entirely in accordance with guidance in the Council's Urban Design Supplementary Planning Document 2013 (SPD), because the roof pitch is slightly shallower than that of the main dwelling; also because it is slightly nearer to the side boundary than recommended. However, this does not alter my above conclusion, when taking account of the individual site circumstances.
9. The Council has raised no issues in relation to the single storey side extension, and I have no reason to take a contrary view.
10. I have concluded, as set out later in my decision letter, that there has not been a material change in the use of land in this case. Notwithstanding this, the appellant has enclosed land to the side of the dwelling with a tall close-boarded fence. I concur with the Council that this results in a harsh boundary with the highway, and is at odds with the predominantly softer, open plan character of the street scene, particularly given the prominent corner location of the plot.
11. I conclude that the boundary fence, in terms of its height and position, results in harm to the character and appearance of the street scene. It is therefore in conflict with Policies CS5 and DC1 of the CS as referenced above. The proposed boundary treatment is part and parcel of the proposed curtilage extension. It follows that the latter must also be unacceptable in this case.
12. The appellant has drawn my attention to the existence of what they refer to as similar enclosure arrangements at Nos 1 and 5 Sorrel Court, which are also corner plots. However, it was apparent from my visit that the height of the fence at No 1 is significantly shorter as it extends around the corner in the street. With regard to No 5, the side boundary wall, though tall, is significantly offset from the front elevation of the dwelling, resulting in a more open corner. The circumstances of those cases thus differ from the present appeal, and do not establish a precedent which supports the grant of planning permission for the boundary treatment in this case.
13. The appellant has also sought to justify the position and design of the fence on the grounds that it provides essential security and privacy to the family. Whilst this may be the case, I am not persuaded that the privacy and security sought could not be achieved by recessing the fence further within property and away from the highway boundary. This consideration does not therefore outweigh the harm I have found.

Living Conditions

14. The Council raises the concern that the rear two storey extension is overbearing and overly dominant in relation to the adjacent properties. No 12 Sorrel Court is

adjacent to the side of the appeal property. The rear elevation of that dwelling is set somewhat further back compared to the rear elevation of the appeal dwelling, and accordingly the rear extension subject to this appeal.

15. However, No 12 benefits from a reasonable degree of separation with the dwelling situated directly behind (No 18), and also from the relatively open aspect to its opposite side, associated with the undeveloped highway corridor along Stokesley Road.
16. The dwelling directly to the rear of the appeal site is No 16 Sorrel Court. That property benefits from reasonable separation from the extension; is sited at a higher ground level in relation to it; and has a relatively open aspect to the side associated with the cul-de-sac corridor.
17. Therefore, when drawing these factors together, I conclude the rear extension has not resulted in an oppressive or overbearing outlook, from rear gardens and windows, for adjacent residents. Accordingly, this development is not in conflict with Policies CS5 and DC1 of the CS or with the SPD insofar as they seek to protect the living conditions of nearby residents.

Other Matters

18. A local resident has raised concerns regarding the single storey side extension, in terms of overlooking from the front elevation window, and the surface water drainage arrangements.
19. However, I am satisfied there is sufficient separation between the front elevations of the appeal property and dwellings on the opposite side of the cul-de-sac, not to result in harm to privacy or outlook. I am also satisfied, from my visit, that surface water from the side extension, is channelled via a downpipe to a soakaway area; and I have not been presented with any evidence that this arrangement will result in a problem.

Conclusion regarding Appeal C

20. With regard to the boundary fence, and associated extension to the residential curtilage, I have found harm to the character and appearance of the street scene. Consequently, the appeal fails in relation to this aspect of development. Planning permission will not therefore be granted for the boundary treatment and curtilage extension.
21. With regard to the single storey side extension and the two storey rear extension, I have found that they do not result in any character and appearance harm, or harm to the living conditions of neighbouring residents. Consequently, the appeal succeeds in relation to these aspects of the development, for which planning permission will therefore be granted.

Appeal A on ground (f)

22. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve the purpose. The purposes of an enforcement notice are set out in s173 of the 1990 Act and include remedying the breach of planning control (s173(4)(a)). The 1990 Act sets out that the breach may be remedied by making the development comply with the terms of any planning permission

granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place.

23. With regard to the unauthorised development, the objectives of the notice are to remove the two-storey rear extension and thus to restore the land to its condition before the breach took place. It follows that the purpose of the notice is to remedy the breach of planning control.
24. The appellant's ground (f) appeal is that the requirement to demolish the two-storey rear extension is excessive, because alternative more reasonable steps could be taken. They say that the rear extension only requires planning permission because it is joined to the single storey side extension. Therefore, if the side extension were to be reduced in length to obviate this connection, the rear extension would then be compliant with permitted development limitations. Thus, they say, an acceptable lesser step would be to amend the side extension.
25. However, in accordance with the above considerations, the breach can only be remedied by removing the rear extension and restoring the land. To require this is not therefore excessive. The ground (f) appeal therefore fails. However, this becomes an academic point (not of practical relevance), as attention is drawn to paragraphs 38 and 39 below, concerning the effect on the notice of planning permission being granted.

Appeal A on ground (g)

26. The appeal on ground (g) is that the time given to comply with the requirements is too short, and that a longer period (9 months) should be allowed. The appellant says they require this period of time to discuss a possible suitable alternative solution with the Council, and to secure and implement any resulting planning permission.
27. Whether a different development ought to be granted planning permission is a different question to how long is reasonable to comply with an enforcement notice. I find no compelling reason to extend the six-month period given in the notice for compliance, which would be proportionate and reasonable. The ground (g) appeal therefore fails. However this also becomes an academic point (not of practical relevance), as attention is drawn to paragraphs 38 and 39 below, concerning the effect on the notice of planning permission being granted.

Appeal B on grounds (b) and (c)

28. As set out above, the appeal is that the alleged material change of use has not occurred (ground (b)) and thus has not resulted in a breach of planning control (ground (c)). Grounds (b) and (c) are known as 'legal grounds'. In such cases the burden of proof rests with the appellant, with the standard of proof being the balance of probability.
29. The alleged material change of use concerns a broadly rectangular parcel of land, situated between the side elevation of the dwelling and the public highway. From the evidence submitted, including photographs appended with the enforcement notice, prior to its enclosure the land in question comprised a grassed area, vegetated with short trees and shrubs.
30. That the land in question is within the appellant's ownership, and was so when the alleged development occurred, is not disputed. However, the crux of the dispute

between the Council and the appellant is whether the lawful use of this space can be regarded as private garden land, or as being in separate use as 'open amenity land'.

31. The appellant's case is that the alleged material change of use to private garden land has not occurred, as the land subject to the notice has always been part of the appellant's private garden, with the vegetation there being neatly maintained by the occupants. In this regard they say there has not therefore been a breach of planning control.
32. It is important to have regard to the concept of the planning unit, as it is the planning unit against which the question of a material change of use would need to be judged. The planning unit is usually the unit of occupation, unless a smaller area can be identified which, as a matter of fact and degree, is physically separate and distinct, and occupied for different and unrelated purposes; the concept of physical and functional separation is key.
33. The Council refers to the loss of an open green space, which acts as an important visual buffer and public amenity within the estate. However, notwithstanding its previous separation from the rear garden by a previous fence, the land in question appears to have been part of continuous and uninterrupted space wrapping around the front and side of the appeal property. I have no reason to dispute that grass and plants, formerly present within this area to the side of the dwelling, were regularly tended and maintained by the appellant, as part of their enjoyment of the property.
34. It is possible for open plan front gardens on more modern estates, to be protected from fence enclosures, so that they provide a wider amenity function. Notwithstanding, this does not mean that such areas, which are frequently planted and maintained by and for the enjoyment of residents, no longer constitute gardens incidental to the enjoyment of those dwellings; even though they may not facilitate certain domestic activities associated with more private space. I consider the appeal site to be akin to this situation, its close physical and functional relationship, orientation and common ownership with the respective private dwelling, meaning it should be regarded as garden land, albeit with wider amenity benefits.
35. This is a subtle distinction but nevertheless significant in this case. I find that the lawful use of the appeal site land is that of a private garden, functionally linked to the respective dwelling, rather than a separate planning unit of open amenity land.
36. Whilst I have some sympathy with the Council's stance, on the balance of probability I find that a material change of use of land has not occurred in this case. The ground (b) and (c) appeals therefore succeed in respect of the material change of use of land.

Overall Conclusions

Appeal C

37. For the reasons given above I conclude that the appeal should be allowed in part and dismissed in part.

Appeal A

38. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice. However, Section 180 of the 1990 Act states that where after the service of an enforcement notice planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission. Consequently, the notice will cease to have effect with regard to the erection of the two storey rear extension, because this will benefit from planning permission, which overrides the enforcement notice, and will therefore be lawful for planning purposes.
39. For the avoidance of doubt this means that the enforcement notice ceases to have effect once the planning permission is granted.

Appeal B

40. For the reasons given above, I conclude that the appeal should succeed on grounds (b) and (c). The enforcement notice will be quashed.
41. In these circumstances, the appeal on ground (g) does not fall to be considered.

Formal Decisions

Appeal A

42. The appeal is dismissed and the enforcement notice is upheld.

Appeal B

43. The appeal is allowed and the enforcement notice is quashed.

Appeal C

44. The appeal is dismissed insofar as it relates to 'extension to residential curtilage and associated boundary treatment'. The appeal is allowed and planning permission is granted only insofar as it relates to the single storey extension to side and two storey extension to rear at 14 Sorrel Court, Middlesbrough TS7 8RZ in accordance with the terms of the application, Ref 24/0451/FUL, dated 3 November 2024, and the plans numbered 24-326 003 Rev A (Proposed Plans) and 24-326 004 Rev A (Proposed Elevations) so far as relevant to that part of the development hereby permitted.

R. Merrett

INSPECTOR