



## Appeal Decision

Site visit made on 24 October 2023

**by N Kempton BA(Hons) PGDip MA IHBC MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 04 December 2023**

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### **Appeal Ref: APP/N1350/D/23/3328781**

#### **2 Fox Close, Hurworth Place, Darlington DL2 2HG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
  - The appeal is made by Mr Geoff Wood against the decision of Darlington Borough Council.
  - The application Ref 23/00311/FUL, dated 22 March 2023, was refused by notice dated 26 June 2023.
  - The development proposed is the erection of a 1.83m high fence to side and rear boundary of the property.
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### **Decision**

1. The appeal is allowed and planning permission is granted for the erection of a 1.83m high fence to the side and rear boundaries of the property, 2 Fox Close, Darlington, DL2 2HG, in accordance with the terms of the application, Ref 23/00311/FUL, dated 22 March 2023, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: F001 Rev B received 13/06/23.

### **Procedural Matter**

2. The description of development is taken from the decision notice rather than the application form, in the interests of clarity- the former description is clearer. Reference to amended plans and the date they were received have been omitted on the basis that the description refers to acts of development. However, amended plans are stated in condition 2 above.

### **Main Issues**

3. The main issues are:

- The effect of the proposed development on the character and appearance of the area;
- The impact of the proposed development on highway safety.

### **Reasons**

#### *Character and appearance*

4. The appeal site is a semi- detached and extended bungalow, which occupies a corner plot situated at the entrance to a cul-de-sac comprising semi-detached bungalows. The appeal property forms part of a 1960's open plan residential

development, where property boundaries are generally free of boundary treatments to delineate ownership. In the vicinity of the appeal site, there are a mix of bungalows and 2 storey dwellings, constructed of a mixed material palette.

5. The character of the area is derived, in part, from the open plan layout of the estate, which creates a sense of spaciousness. Front gardens and generous green lawns, which extend up to public footpaths, are open rather than being enclosed by fencing or hedging. Dwellings are set well back in the plots, positively contributing to the spacious character of this part of the housing estate. In Fox Close, this open character is further reinforced by the relatively low built form density of single storey dwellings, such that the skyline is largely unimpeded. Furthermore, the open, green aspect is augmented by the presence of mature trees bordering the end of the cul-de-sac. Generally, the open plan layout is less discernible to the side and rear of properties, by reason of various configurations of garaging, driveways and boundary alignments.

6. The appeal property is bound by roads on three sides. Garden space associated with the appeal property, to the front and side, is indistinct from public land- there is no clear distinction between public and private space. Whilst the siting of the garage and linked extension serve to provide some enclosure to garden space to the rear, in the absence of a fence along the rear boundary, this garden space lacks privacy- rather it is open to the cul-de-sac of Woodlands Way at the rear. It is considered reasonable and justifiable for the appellant to require privacy and security for the enjoyment of amenity space associated with the property. The erection of the fence, as proposed, will serve to delineate between public and private space and afford the appellant the desired level of privacy and security. It is noted that the housing estate layout affords such privacy, security and enjoyment of private garden space for occupants of other properties not occupying corner plots.

7. In Fox Close, I observed that boundary treatments are wholly absent from the front of properties, allowing lawns to extend up to the public footpaths. As such, it is acknowledged that the erection of fencing or similar, to delineate the property boundary to the front would constitute a departure from the open plan concept on which the design and layout of this housing estate is based.

8. However, the proposed boundary treatment would not enclose the property to the front. Rather it would be set back from the front elevation of the bungalow, thereby maintaining the open aspect and spacious character to the front of the property. This reflects the alignment of the existing boundary treatment at number 1 Fox Close, opposite the appeal property. Furthermore, evidence before me indicates that the proposed fencing will effectively reinstate the boundary treatment that formerly enclosed the southern boundary of the appeal property. The proposed boundary treatment will not therefore, be detrimental to the visual amenity of the area or undermine the open plan layout and spatial character of the housing estate. For these reasons, the proposed development is in accordance with Policy DC1 of the Darlington Local Plan 2016-2036 with regards to design that responds positively to local context.

9. Based on the evidence before me and that which I observed on site, it is apparent that boundary treatments have been erected in the vicinity, more commonly enclosing corner plots bound on 2 or 3 sides by public highway- thereby comparable with the appeal site. These boundaries have been erected incrementally to create a distinction between public and private space. Generally,

set back behind the building line of the dwelling, the boundaries do not compromise the open plan frontage.

10. Whilst the open frontages of properties have evidently largely been maintained clear of any delineation or enclosure, the side and rear elevations exhibit variety in terms of alterations, extensions and boundary treatments. The appeal property has been extended to the side and rear, resulting in an elongated form and a length of solid wall, parallel with Woodlands Way. The side wall of the extended property forms an enclosure, which would not be dissimilar to a fence. The presence of a length of fencing along this elevation will enclose the roadside of the property, creating private garden space, served by patio doors, which presently appear incongruous on this public elevation. The fencing will also enclose the rear garden. As with number 1 Fox Close, the appeal property would be bound by fencing delineating the extent of the private garden space associated with the property, in the interests of privacy and security.

11. The height of the proposed fence is 1.83m, which would be just below the eaves height of the garage and side extension. This is comparable with the height of fencing enclosing corner plots elsewhere on this housing estate. As such, the proposed development is in keeping with the residential character, reflecting fencing which has already been erected in the immediate locality, with regards to materials, alignment and height. As such the proposed development is in accordance with Policy DC1 of the Darlington Local Plan 2016-2036 with regards to design that responds positively to local context.

#### *Highway safety*

12. Notwithstanding the representation from the Highway Engineer, access and egress from the garage is into the cul-de-sac to the rear, which itself only comprises a small number of dwellings. Traffic movements generated by these dwellings is likely to be proportionate and can be made with an awareness of context. The cul-de-sac layout utilised in housing development design, is a mechanism that is used, in part, to assist in restricting vehicles speeds. It is reasonable to presume that both pedestrian and vehicular traffic in this locality is likely to be generated by local residents with knowledge of the layout, travelling at low speeds on entry to and egress from Woodlands Way cul-de-sac. Additionally, the existence of private driveways crossing footways will serve to alert pedestrians to the potential for vehicles to be entering or leaving driveways. Similarly, use of private driveways is with due caution on account of the potential for pedestrians using footways.

13. Whilst the fence would enclose the driveway and restrict visibility for anyone using it or approaching it, for the reasons set out above, the risk of conflict between road users resulting from reduced visibility is very limited. I conclude therefore, that the proposed development would not have a significant impact on highway safety and is in accordance with Policies DC1 and IN4 of the Darlington Local Plan 2016-2036 with regards to highway safety and parking provision.

#### **Conclusion**

14. I have found that the proposed development would not conflict with the development plan when read as a whole and there are no other considerations, which outweigh this finding.

15. For the reasons given, the appeal succeeds.

*N Kempton*

INSPECTOR