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## Appeal Decision

Site visit made on 24 June 2025

by **G Robbie BA(Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7<sup>th</sup> August 2025

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**Appeal Ref: APP/N1350/W/25/3364447**

**68 Meadowfield Road, Darlington, Durham DL3 0DT**

- 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 Peter Windale against the decision of Darlington Borough Council.
  - The application Ref is 24/01000/FUL.
  - The development was described as '*Change of use from open space to domestic curtilage, with the erection of a 1.8m high boundary fence to the rear of the property*'.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The original description of development is set out in the banner heading above. Whilst the Council's decision notice additionally includes the word 'retrospective', it seems to me that this is true only in part. It is clear that the application was submitted to the local planning authority after the development described in the banner heading above had been carried out. It is also clear that the Council determined the application on the same basis. The 'boundary fence' was in place at the time of my visit to the site, which was carried out on an unaccompanied basis from the shared footway / cycleway.
3. However, the applicant described amendments to the scheme as built, including the realignment of the fence, the painting of it in a green colour and the inclusion of additional planting on the path / cycleway side of it. It is also clear that the Council's delegated officer report describes the scheme in this form, rather than its as-built form. For the avoidance of doubt I have determined the appeal on this basis and I am satisfied that the Council did so too.

### Main Issues

4. The main issues are the effects of the development upon:
  - The character and appearance of the surrounding area; and
  - Trees and biodiversity.

### Reasons

#### *Character and appearance*

5. The appeal property, 68 Meadowfield Road, is a semi-detached residential property located at the head of a short cul-de-sac. Its rear garden is broadly wedge-shaped and increases in width towards its rear and shares a boundary with the trackbed and margins of the former Barnard Castle trackbed, which is now a shared cycle way and footpath. The area of land to which the appeal relates is a

broadly rectangular area of land beyond the previous rear garden fence and which, at the time of my visit to the site, was enclosed by a corrugated metal sheet fence.

6. The former trackbed is now a shared footpath and cycleway, with wider links to neighbouring residential streets, and to West Park to the north. The shared path is bordered along both sides by a strip of mown grass, with a mix of trees, shrubs and more general undergrowth beyond. The pathway corridor is bordered along a considerable part of its length between its links with Richmond Close and Crossfield Road, particularly on its southern side, by the rear gardens of residential properties. To the north, amongst the undergrowth there appeared to be the remains of a wire fence and, where the vegetation was thickest, an access through into the adjoining West Park.
7. At the time of my visit to the site the fence was partly screened by low and medium level vegetation between the edge of the shared path / cycleway and the fence line. That undergrowth, in the form of dense and verdant nettle and brambles, amongst other things, was of some depth and height. Nevertheless, the corrugated metal sheeting fence was clearly visible through and above this undergrowth from close-quarters viewing, although I accept that in longer views towards it in both directions the depth and variation in undergrowth, trees and shrubs are all such that the fence becomes less visible. And as the fence becomes less visible, so too does the extent to which it disrupts the prevailing alignment of the fence line of properties that back on to the path corridor.
8. However, that is not to say that the fence does not impinge upon the prevailing verdant character of the path corridor, or the space alongside it. Both its colour (grey, at the time of my visit) and the materials it is constructed of are stark and incongruous within the otherwise shady, dark and green, verdant setting of the path, and notwithstanding the extent of vegetation described above.
9. Although the fence material would not change from the corrugated metal sheeting present at the time of my site visit, the amendments described by the appellant are such that its colour would. The exact colour would be within a range of RAL 'green' colours which would provide a significantly more muted colour than that visible at the time of my visit, and which would be more appropriate in the context of its heavily shaded location set amongst substantial undergrowth and vegetation.
10. However, photographs of the path corridor, fencing and general extent of vegetation during winter<sup>1</sup> when the undergrowth had died back provided by the appellant demonstrate the extent to which the fence extends forward of neighbouring fence lines. In this context, a reduction of its projection by in the region of 1 metre to 6.8 metres would only result in a limited reduction of its incursion into the visual extent of the pathway corridor.
11. Whilst I can understand the appellant's concern regarding the proximity of large trees to his residential property, and to those of others, that the photographs illustrate, the incongruity of the fence at that time of the year is clearer to see. A dark green colour would assist in mitigating the strident nature of the presently grey-coloured fence, even without the benefit of vegetation and undergrowth around it, but it would not disguise its positioning relative to the path / cycleway or its deviation from the prevailing form and alignment of fences along this stretch of the path / cycleway.

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<sup>1</sup> Annex 5 – Photos of fallen trees due to storm (January 2024)

12. Nor would it wholly disguise the somewhat industrial nature of the corrugated metal panel fence in either the residential context of the appeal property, or the more verdant and natural character and appearance of the footpath and cycle corridor. Re-siting it a further 1 metre back towards the rear of the house would increase the width of the 'verge' between the fence and the shared cycle / footway but it would not, in my judgement, make a significant difference to what would continue to be a disruptive presence within the corridor, particularly for those periods of the year when the undergrowth is not as dense as it was at the time of my visit in the height of the summer.
13. A planting scheme may go some way to providing some screening of the fence, but in itself may appear as alien within the otherwise densely vegetated undergrowth of the green corridor as the fence already does and would continue to do so in its revised position. I am not therefore persuaded that the proposed colour finish of the fence, or planting alongside its outside face, would sufficiently mitigate the disruptive presence of the fence or the effect that the fence's positioning would have on the character or appearance of the green corridor or the largely consistent fence-line division between domestic gardens and the more verdant, dense vegetation of the green corridor.
14. The refusal reason cites Policies DC1, ENV3, ENV4 and ENV7 of the Darlington Local Plan (DLP). Collectively, these policies set out the Council's approach to achieving good, sustainable design that recognises the character and local distinctiveness of local landscape character, including that within urban areas, and the role that green infrastructure plays in contributing to character and appearance, and safe, inclusive and accessible communities.
15. In seeking to protect and enhance local distinctiveness DLP Policy ENV3 sets out to retain and enhance, amongst other things, the continuity and amenity value of existing green corridors, which includes the historic route of the former Barnard Castle trackbed. Proposals that adjoin these corridors and indeed, in this case, within the corridor, should respond positively to the local landscape setting whilst DLP Policy EN4 seeks to ensure proposals conserve and enhance its setting, landscape, access and recreational value. These provisions insofar as they relate to green corridors are consistent with the broad aims of DLP Policy DC1 of securing good design to create attractive and desirable places.
16. For the reasons set out, the appeal scheme would fail to respond positively to the aims and objectives of DLP Policies ENV3 and ENV4 and, as such, it fails to satisfy the principles of good design set out by DLP Policy DC1 and is also contrary to that policy.

#### *Trees and biodiversity*

17. The trees that were previously within the area now enclosed by the fence were not, I am advised, protected by any tree preservation order or by virtue of lying within a conservation area. It is also noted that the Council's Senior Arboricultural Officer raised no objection to the loss of trees within this area. The area is heavily wooded with a mix of substantial trees and dense undergrowth. Whilst locally the removal of trees may have thinned the extent of the tree canopy, it has not fundamentally altered the prevailing verdant, sylvan character of the wider area. Thus, I do not find the loss of the trees to be determinative in this instance, particularly as I have found harm in respect to the effect of the fence upon the

character and appearance of the surrounding area and the appeal otherwise fails on that ground.

18. The appellant has indicated that a planting scheme of trees and shrubs alongside the repositioned fence would contribute to the aims and objectives of DLP Policies DC1, ENV3, ENV4 and ENV7 and would address the Council's concerns regarding effects upon biodiversity. Although lacking in detail at this stage, such matters may typically be agreed and secured by way of a planning condition. Whilst I have concerns regarding the extent to which a planting scheme would mitigate the appearance of the fenceline within the green corridor, a suitably worded planning condition to secure, in turn, a suitable planting scheme could nevertheless provide some benefits in terms of the biodiversity offer.
19. Thus, I do not consider the loss of trees to be fatal to the appeal scheme, and the biodiversity gains, albeit potentially limited, that could be offered by a scheme of this scale and nature would not be inconsistent with the broad aims and provisions of DLP Policies DC1, ENV3, ENV4 and ENV7 in this respect. This is therefore a matter that carries some weight in support of the appeal scheme.

### **Other Matters**

20. The realigned fence would be moved further back from the path / cycleway edge and increase the width of the 'verge' between it and the fence. Whilst I can understand the appellant's desire to create a substantial fence given the actual and perceived instances of anti-social behaviour in the surrounding area, I am not persuaded that the appeal scheme would be entirely successful in this respect. Thus, whilst there may be private benefits to the appellant in terms of increased property security, the retention of the fence would create 'hidden' areas by virtue of its projection from the fence lines on either side of it. Whether or not vegetation and undergrowth is present, these areas would be partly secluded and lack the sense of natural surveillance and longer distance views that would be more likely to be present were the fence not to project in the manner proposed.
21. I accept that the appeal scheme would not impinge directly upon the pathway or cycleway, or reduce the width of the 'carriageway' at that point. Nor would longer-distance visibility along the path or cycleway be compromised by the fence's position given its largely straight and level alignment at this point. However, the hidden spots created by the fence's projection would be appreciable for those travelling past the appeal site and may lead to an actual or perceived risk of blind spots being created.
22. The appellant's extensive efforts to identify the ownership of the land are noted. So too are the claims regarding the principles of adverse possession as cited by the appellant. That being so, this appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) and it is not the role of such appeals to examine the lawful use of land or buildings. Indeed, it is open to the appellant to apply to have such matters determined under sections 191 or 192 of the Act. Any such matter, for example in respect of the enclosure of the land, would be unaffected by my determination of this matter.

### **Conclusion**

23. The appellant's proposed mitigation in the form of a proposed planting scheme would carry some weight in support of the appeal proposal in offering scope for

biodiversity mitigation for the previous removal of trees from within the appeal site. Nor am I persuaded that the loss of trees would be harmful in, and of, itself given the context in which the appeal site lies. However, whilst that may be the case, the realignment of the fence to extend the garden area would harmfully erode the prevailing character and appearance of the former trackbed path and green corridor, which would be contrary to DLP Policies DC1, ENV3 and ENV4. The absence of harm in respect of trees and biodiversity carries limited weight in support of the scheme but not sufficiently so to persuade me as to the overall acceptability of the matter before me.

24. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

*G Robbie*

INSPECTOR