
Appeal Decision

Site visit made on 2 September 2025 by A Morrison MTCP MRTPI

Decision by Martin Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2026

Appeal Ref: APP/N1350/D/25/3368788

37 John Fowler Way, Darlington, County Durham DL2 2GG

- 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 Michael Dearnley against the decision of Darlington Borough Council.
 - The application Ref is 25/00416/FUL.
 - The development is the erection of a 1.8m height timber fence to rear boundary and the proposed erection of a 1.8m height timber fence to side boundary.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 1.8m height timber fence to rear boundary at 37 John Fowler Way, Darlington, County Durham DL2 2GG in accordance with the terms of the application, Ref 25/00416/FUL, and the plans submitted with it, so far as relevant to that part of the development hereby permitted.
2. The appeal is dismissed insofar as it relates to the proposed erection of a 1.8m height timber fence to side boundary.

Appeal Procedure

3. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

4. In its processing of the application, the Council changed the description of the development from that entered on the application form. I am of the view that the appellant's original description was not sufficiently accurate and concise and therefore will adopt the Council's description in my decision.
5. The application form stated that the development was started on 11 April 2025 but had not been completed. I saw during my visit that the fence to the rear boundary had been completed, whilst the fence to the side boundary had not been started. This appears to be in accordance with the plans before me and I have therefore considered the appeal on this basis.
6. The two sections of fence subject of this appeal are clearly severable from one another, as physically and functionally independent developments. Therefore, under section 79(1)(b) of the Town and Country Planning Act 1990, I have the power to issue a split decision in this case.

Main Issue

7. The main issue is the effect of the completed and proposed development on the character and appearance of the area.

Reasons for the Recommendation

8. 37 John Fowler Way is an end terrace dwelling located at the entrance of a lightly trafficked no-through road within a modern housing estate towards the edge of Darlington. The property is a corner plot, with the highway curving around its side to its rear, where it terminates as the means of access to car parking for neighbouring dwellings within the same enclave of development.
9. I understand that before the new timber fence was installed along the rear boundary with the adjoining pavement, the property's rear garden was enclosed by a similar fence that was set back from the highway. This original layout set aside a small area of land between the fence and the pavement, which was planted. The brick wall, fence and gate forming the garden's side elevation to the highway are also set back, with planting again within this narrow margin.
10. During my visit I observed that this arrangement – where the rear garden enclosures are set back from the boundary, is not characteristic of the area. In the locality, rear gardens are commonly defined by fence and walls of straightforward alignment, built directly along property boundaries with highways and footpaths. This includes an established fence at 1 John Fowler Way sited opposite the site, which, though I understand was not an original feature of the housing development's layout, nevertheless now forms part of the area's character.

Rear fence

11. The timber fence constructed along the property's rear boundary has resulted in the enclosure of the small area of planted land as originally laid out. I appreciate that the original rear fence was set back to contribute an element of spaciousness around the road's curve, notwithstanding that this arrangement was at odds with the prevailing abutting of rear gardens with the highway in the locality. Having reviewed images of this space prior to the new fence's installation, it is apparent that due to its rearward siting and separation from the property's driveway, there was little incentive for it to be maintained by its owner. In addition, due to its small size and the presence of the two adjacent brick walls as visually blocking features, regardless of its condition, in practice the area performed a negligible function in respect to openness, and its contribution to the street scene.
12. Extending in a gentle curve along the full width of the rear boundary with a vertical board construction, the new fence has been built to a similar appearance to those existing at the site and within its surroundings. As viewed from different positions on John Fowler Way, it is consistently seen within the context of neighbouring brick walls and fences and is appropriately sympathetic to these widespread features in the locality with respect to its design and scale. Although the new fence is now not aligned with the neighbouring fence, the relative discreetness of this juxtaposition does not harm the overall aesthetic of the street scene, whereas its arrangement along the same line of projection to the pavement as that of the adjacent brick wall appears logical and fitting to its setting.

13. Whilst I accept that the siting of the development is prominent on the highway's bend, it is perceived together with the opposing fence of the same style at No 1 which runs along the pavement for a similarly short length. I appreciate that unlike the appeal site, No 1 is not a corner plot, and that its fence adjoins a parking area. Nevertheless, the two enclosures are closely comparable features through their positioning, proximity and appearance, and so the presence of this established neighbouring development contributes to my findings as to the acceptability of the new rear fence.
14. Given the compatibility of the fence to its setting and my observation that the small pocket of land as now fully enclosed previously had no material positive effect on the quality of the area, I am satisfied that the development as carried out is a suitable response to the character of the locality.
15. For the above reasons, I conclude that the erection of the 1.8m high timber fence to the rear boundary does not have a harmful effect on the character and appearance of the area. Accordingly, I find no conflict with Policy DC 1 of the Darlington Local Plan 2016-2032, which requires development to be of a good design, including through reflecting and responding positively to the local context.

Side fence

16. The proposed timber fence to part of the appeal site's side boundary would be of the same design and height to that already constructed across the rear. It would take the form of a small rectangular projection out from the existing side garden enclosure, jutting out to the pavement's edge. In doing so, the new triple sided fence would disrupt the simple straight and set back alignment of the original side wall, fence and gate.
17. At my visit I noted that garden enclosures in the locality typically take the form of straight or gently curved walls or fences, with no instances of the type of small projection as constitutes this element of the appeal scheme. Although the design of the fence would match the existing on the property, unlike the simplicity of the completed new rear fence, the resulting convoluted alignment would appear clumsy as viewed against the retained span of straight wall and gate to either side. The incongruity of this fenced protrusion within the street scene would be furthermore exacerbated through its awkward positioning abutting a lamppost together with its high degree of prominence as facing the road's entrance.
18. On this basis, I conclude that the proposed erection of a 1.8m high timber fence to the side boundary would have a harmful effect on the character and appearance of the area. In doing so, it would conflict with Policy DC 1 of the Darlington Local Plan 2016-2032 which requires development to be of a good design, including through reflecting and responding positively to the local context.

Other Matters

19. Concerns have been raised about a reduction in highway and pedestrian visibility because of the new rear boundary fence. However, I note that the Council's Highway Engineer has raised no objection to the development, and furthermore, I did not observe there to be any highway safety issues at the time of my visit.

Conditions

20. As the construction of the fence to the rear boundary has already taken place, conditions relating to time limit for construction and materials are unnecessary. Given that I have found its existing appearance to be acceptable, I am also satisfied that a condition requiring the fence to be stained or painted is not required.

Conclusion and Recommendation

21. The appeal scheme includes two different elements. I have concluded that the rear fence boundary fence as completed does not have a harmful impact upon the character and appearance of the area. However, I have concluded that the side boundary fence as proposed would have a harmful impact upon the character and appearance of the area.
22. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed in respect of the rear boundary fence and that the appeal should be dismissed in respect of the side boundary fence.

A Morrison

APPEAL PLANNING OFFICER

Inspector's Decision

23. I have considered all the submitted evidence and my representative's report and on that basis the appeal is determined as a split decision, in the terms set out above.

Martin Seaton

INSPECTOR