
Appeal Decision

Site visit made on 20 September 2016

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5th October 2016

Appeal Ref: APP/A1720/D/16/3155264
20 Silver Birch Avenue, Fareham PO14 1SZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr John Tucknott against the decision of Fareham Borough Council.
 - *The application Ref P/16/0434/CU, dated 14 April 2016, was refused by notice dated 26 May 2016.*
 - *The development proposed is described as 'to primarily make better use of our available land around our house at 20, Silver Birch Avenue, Fareham, Hants, PO14 1SZ. We have been in contact with Hampshire County Council (11/4/2016) regarding the possibility of dropping the kerbs at the appropriate places and are awaiting their response. However before anything progresses we wanted to make sure that there would not be any issues from the perspective of your department at the Fareham Borough Council. Essentially we want to widen our front driveway (this will allow our second car to parked on the driveway and off the road); create walls at the boundary (in addition to some of the existing walls) as the grassed area around the south side of our house is frequently abused by dog walkers and litter 'louts'; and create a gated access and driveway into our rear garden to be able to store our touring caravan between trips. Having discussed the above proposals with Emma Marks (Fareham Planning Officer), the only issue would be with the proposed rear garden driveway which would require a change of use application which in discussion with her manager was deemed to be an acceptable proposal/pre-application and advised to proceed with the full planning application. Attached are four drawings that I hope will assist in clarifying the situation: 1) Boundary - 20 Silver Birch Avenue Fareham Hants PO14 1SZ This drawing is as it says in the title - it shows the extent of our land and the boundary. 2) Existing Drawing 0002 this drawing shows the position of the walls and fences as they currently exist. 3) Required Drawing 0003 this shows a drawing of where we would like to make the required changes, as follows: a) the relocation of the south wall (with a gated access) - change of use for the grassed area outside of the current wall. b) a widening of the existing driveway with low level walls either side. c) the east wall and its extension (of approximately 2.0m) - which we have discussed with the neighbour (the owners) and they have no objections and have verbally agreed to assist with the financing of the east wall build. 4) Location Drawing A 1:1250 drawing (Land Registry HP196806) showing the location of 20 Silver Birch Avenue in relation to the surrounding area. The building of walls to the boundary of all types, and heights, along Silver Birch Avenue are already in evidence so the precedence has already been set and the impact of the proposed changes to anyone else is minimal (if at all). Examples are that both houses at the entrance to Silver Birch Avenue have walls to their back gardens that go fully along the length of their boundary; the house on the opposite corner to us (as can just be seen on the existing and required drawing - bottom right hand corner) is a full height wall of approximately 2.0m which goes right to the boundary; and my neighbour has a low level wall to the front of their house and I'm sure that there are others.'*
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land into garden area, relocation of garden wall with vehicle access gates at 20 Silver Birch Avenue, Fareham PO14 1SZ, in accordance with the terms of the application, Ref P/16/0434/CU, dated 14 April 2016, and the plans submitted with it, 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 plans: location plan 1:1250; site plan (showing date 31-7-1981); EXISTING DRAWING unreferenced; REQUIRED DRAWING unreferenced.
 - 3) The materials to be used in the development hereby permitted shall match those used in the existing building.

Preliminary Matters

2. For the purposes of clarity and of brevity I have used the description of development in the decision section above as given by the Council and as repeated by the appellant in the appeal form. Both parties refer to a change of use of land. It is not for me, under a section 78 appeal, to determine the existing lawful use of the land, so I have determined the appeal on the basis of the permission sought.

Main Issue

3. The main issue is the effect of the development on the appearance of Silver Birch Avenue.

Reasons

4. The Council raises no objection to the proposal in terms of its effect on highway safety, street parking, or the living conditions of neighbours, but considers that the enclosure of the open area and the erection of the proposed wall would harm the appearance of Silver Birch Avenue. It refers to Policy CS17 of its Core Strategy 2011 (CS), which seeks quality places in which development is respectful of the key characteristics of the area including landscape, scale, and spaciousness.
5. My impression of Silver Birch Avenue is that it is a cul-de-sac of 1980s, detached housing, with open-plan, generally unenclosed, planted front gardens, at the end of which is a turning head enclosed by houses including the appeal site. Despite most of the houses containing frontage parking, these layout features are key characteristics which contribute to the green and relatively open character of the street, which is reflected in the housing in the surrounding area.
6. No 20's frontage faces into the cul-de-sac, with a drive to its integral garage and a lawned front garden. Its flank is set around 2m off the back edge of footway in an open strip occupied by grass and low planting. This open strip continues into a similar but narrower strip between the footway and the brick wall enclosing No 20's back garden, until it meets the side wall of the front garden of the house behind.

7. Aside from providing additional front garden parking and access for parking in the back garden to which the Council does not object, the proposed development would enclose the open strip of land to the side of the house as well as around the corner of its front garden. The enclosure would change the appearance of the street scene by diminishing the open space beside the footway and by introducing a tall enclosure along part of the back edge of the footway.
8. However, beyond the immediate confines of the appeal site, in Silver Birch Avenue are examples of similar enclosure and these have a significant bearing on the appearance of the street. Standing on the opposite corner of the entrance to the turning head is No 21, which shares similar architecture and a similar plot arrangement to No 20. As the line of the road curves in a direction towards No 21, the open strip beside its flank is comparatively narrower and part of the wall enclosing its back garden stands along the back edge of the footway. The two houses which stand at the entrance to Silver Birch Avenue also have their flanks orientated towards the road, like No 20. While they have retained unenclosed, planted, front gardens, both have enclosures of brick, timber fence, and hedging around 2m high running along the back edge of the footway opposite their flanks, and returning. In addition, the front garden of No 18, beside the back garden of No 20, has a low enclosure to its front garden, around 750mm high.
9. Taking into account these other enclosures in the same street, the proposal would not appear out of character. Moreover, the higher enclosure would return to the flank wall of the house before the mid-point of the flank, and its tail-end, by the boundary to No 18, would be set back from the footway. These factors would lessen its effect of enclosure on the street scene. The shorter enclosure would stop almost parallel to the flank wall of the house, preserving most of the front garden's open aspect. Its height, at 600mm, would be relatively modest, and comparable to the height of the planting along the back edge of the footway in the front gardens of the houses at the entrance to the street, and similar in height to the enclosure around part of the front garden of No 18.
10. Taking into account the examples of similar enclosure in the street and the moderating aspects of the proposal identified above, the effect of the development on the appearance of Silver Birch Avenue would not be harmful and would accord with CS Policy CS17.

Other matters

11. I have had regard to the concerns raised by neighbours, many of which I have considered within the main issue. Other concerns include the impact of the enclosure on the living conditions of the occupiers of No 18, pressure on on-street parking, and highway safety, as well as the setting of a precedent.
12. I acknowledge that the enclosure would change the outlook from No 18's front room and front garden, however, given the distance from the window of the enclosure, its limited projection forward, and the size of No 18's front garden, I do not consider that the occupiers' outlook would be materially harmed. I note the representation regarding a potential consequence of allowing the appeal being the parking of a caravan in the back garden of No 20 and a resulting loss of daylight and sunlight entering No 18. However, the appellant affirms that such parking would be temporary. I note that the majority of No 20's garden

stands behind the flank wall of the house at No 18, and that the house at No 20 stands to the west of No 18, already reducing the amount of west light it receives. On the evidence before me, I do not consider that No 18 would suffer an unacceptably adverse impact on its daylight or sunlight from the proposed development, either in its garden or in the rooms of the house. There would be no conflict with one of the core planning principles of the National Planning Policy Framework 2012 which seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

13. From my visit to the site and the surrounding streets, I do not consider that the parking displaced from the area in front of the proposed gates would result in unsustainable pressure on the existing on-street parking in the area. Nor has it been demonstrated that there would be a harmful effect on highway safety as a result of the erection of the proposed walls.
14. There are three comparable plots in Silver Birch Avenue where the flank walls of the houses stand opposite each other across the street, and close to the footway. Each, to a greater or lesser degree already has a high, back garden boundary enclosure along the back edge of the footway. The margins of land between the flank enclosures of the houses sited either side of the turning head in the street are contiguous with a far greater area of open land, with a different bearing on the public realm, than the proposal in this case. I do not consider that these circumstances would amount to an undesirable precedent being set.

Conditions

15. I have considered the conditions that have been suggested by the Council against the advice in the Planning Practice Guidance. Aside from the statutory time limit condition, it is necessary for certainty to require that the development be carried out in accordance with the approved plans. I have also applied a condition relating to external materials, in order to safeguard the appearance of the area.

Conclusion

16. For the reasons given above, and taking account of all matters raised, I conclude that the appeal should be allowed.

Patrick Whelan

INSPECTOR