

Appeal Decision

Site visit made on 7 November 2016

by H Butcher BSc (Hons) MSc MRTPI

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

Decision date: 30 November 2016

Appeal Ref: APP/W1715/W/16/3154377

16 Ullswater Avenue, West End, Southampton, SO18 3QU

- 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 T Nicholson against the decision of Eastleigh Borough Council.
 - The application Ref F/16/78552, dated 9 May 2016, was refused by notice dated 5 July 2016.
 - The development proposed is a change of use from incidental open space to part of the curtilage of No 16 Ullswater Avenue.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed change of use on the character and appearance of Ullswater Avenue.

Reasons

3. 16 Ullswater Avenue is a detached property. It forms part of a large residential estate. No 16, however, is located on the fringes of this. It sits at the end of a row of similar properties, to the north of which is open land and a dense belt of trees which form Westend Copse; a site of Importance to Nature Conservation and protected by a Tree Preservation Order.
 4. The appeal concerns the change of use of an area of land on the north side of No 16 to residential curtilage. At the time of my site visit the appeal site had been completely enclosed by close board fencing approximately 2m in height. Conifers had also been planted across the front boundary. A lawful development certificate, for the construction of 2m fencing to the sides and rear, and 1m fencing to the front to enclose the land, was granted under reference U/13/73345. The 2m fencing along the front boundary is therefore unlawful and is the subject of a separate enforcement investigation.
 5. The appeal site is, notwithstanding the fencing, an undeveloped area of land containing some mature and attractive trees. The site along with the dense belt of trees beyond makes an important contribution to the character of Ullswater Avenue effectively providing a natural woodland edge to the estate. Although it has been found to be lawful to enclose this area of land, albeit with lower fencing, the undeveloped nature of the appeal site would still be apparent from the street scene.
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6. Changing the use of this land would erode this. Play equipment such as large trampolines, washing lines, canopies, parasols and all other manner of domestic paraphernalia could be erected on the land were the change of use to residential curtilage to be granted. Whilst partially screened from view many of these items would still be visible above the permitted fencing. Furthermore, general human activity in this area would also erode its natural, undeveloped character. Whilst it would be possible to restrict the construction of outbuildings, it would not be reasonable to restrict all paraphernalia associated with the domestic use of the land as this would effectively nullify the benefit of the permission. In any event, such a condition would not satisfactorily mitigate all of the harm identified above.
7. For these reasons the proposed change of use would be harmful to the character and appearance of Ullswater Avenue. It would therefore conflict with Policy 59.BE of the Eastleigh Borough Local Plan Review (2001-2011) which requires development proposals to take account of the context of the site including the character and appearance of the locality or neighbourhood and to be appropriate in relation to adjoining spaces and views, natural features and trees worthy of retention. The National Planning Policy Framework also states that account should be taken of the different roles and character of different areas. Consequently the appeal is dismissed.

Hayley Butcher

INSPECTOR