The Planning Inspectorate

Appeal Decisions

Site visit made on 26 May 2017

by Chris Preston BA(Hons) BPl MRTPI

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

Decision date: 22 June 2017

Appeals Relating to 43 Cornelius Street, Cheylesmore, Coventry, West Midlands CV3 5FJ

Appeal A Reference: APP/U4610/W/16/3164842

- 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 Farzin Fallahkohan against the decision of Coventry City Council.
- The application Ref HH/2016/1498, dated 29 May 2016, was refused by notice dated 14 September 2016.
- The development proposed is described on the application form as car park.

Appeal B Reference: APP/U4610/C/17/3166512
Appeal C Reference: APP/U4610/C/17/3166513

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- Appeal B is made by Mr Farzin Fallahkohan and Appeal C is made by Mrs Nazanin Khasteganan against an enforcement notice issued by Coventry City Council.
- The enforcement notice, numbered ENF/2016/00032, was issued on 07 December 2016.
- The breach of planning control as alleged in the notice is: Without planning permission the erection of an elevated car parking platform to the front (eastern facing) garden of the Land.
- The requirements of the notice are: (a) Permanently remove the raised car parking platform in its entirety and reinstate land levels within the front (eastern facing) garden to levels similar to those which were in situ previously and; (b) Permanently remove from the Land all building materials and waste arising from compliance with this requirement.
- The period for compliance with the requirements is three calendar months from the date the notice takes effect.
- The appeals are proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Decision in Relation to Appeal A:

1. The appeal is dismissed.

Decisions in Relation to Appeals B & C

2. The appeals are dismissed and the enforcement notice is upheld. Planning permission is refused on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

3. As set out in the banner heading, above, three appeals are before me for determination. Appeal A was submitted against the Council's decision to refuse to grant planning permission for an elevated car parking platform at the site. The application was retrospective and, following its decision to refuse planning permission, the Council served an enforcement notice in relation to the development that had already been undertaken. Two appeals have been made against the decision to issue an enforcement notice; Appeal B was made by Mr Fallahkohan and Appeal C by Mrs Khasteganan.

4. Appeals B and C were submitted on the same appeal form and the grounds of appeal are identical. Appeals B and C were submitted on ground (a) alone. The basis of a ground (a) appeal is that planning permission should be granted for the matters stated in the alleged breach of planning control. Thus, the relevant issues in relation to Appeals B and C are identical to those in Appeal A which seeks planning permission for the development already carried out. Consequently, I have determined all three appeals within a single decision letter.

Main Issues

5. The main issues in relation all three appeals are:

   i) The effect of the development on the character and appearance of the area;

   ii) The effect on the living conditions of adjacent residents; and

   iii) The effect on highway safety.

Character and Appearance of the Area

6. Cornelius Street is a residential road which slopes downwards from its junction with Mile Lane/ Queen Isabel's Avenue to the t-junction with Lichfield Road. The appeal site is a mid-terraced property located at a prominent point on the outward curve of a dog-leg where the street swings steeply upwards towards Mile Lane.

7. Due to the local topography, the ground floor level of dwellings on the western side of the street is set below the level of the carriageway. Modest front gardens slope down from the back edge of the pavement to the front of the associated dwellings. For the most part, the dwellings do not benefit from driveways and low garden walls form the predominant means of enclosure along both sides of the street, occasionally with privet hedges and other vegetation. The street forms part of a typical inter-war or early post-war estate and the front gardens form an essential ingredient in the character of the area.

8. The front garden wall has been substantially removed at the appeal site in order to form a vehicular access to the front garden; a development of itself that is uncharacteristic of the area, as described above. Due to the significant drop in level between the back edge of the carriageway and the front of the dwelling a substantial retaining structure has been erected in order to form a relatively level parking area. Little of the front garden remains and the bulky and somewhat utilitarian retaining structure provides a hard, engineered,

appearance that contrasts awkwardly with the softer and more pleasant appearance of the hedgerows and vegetation within surrounding front gardens.

9. Consequently, I find that the development has caused harm to the established character and appearance of the area due to the loss of the majority of the front wall, the loss of any usable greenspace within the garden and the bulky and unattractive appearance of the retaining structure. For those reasons, the development represents poor design that is contrary to the objectives of saved policies H4 and BE2 of the Coventry Development Plan (2001) (the DP) and the requirements of section 7 of the National Planning Policy Framework (the Framework), particularly paragraph 64 which states that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

The Effect on the Living Conditions of Adjacent Residents

10. The back edge of the car parking platform sits directly adjacent to the front windows of the dwelling at the appeal site and the neighbouring property at No 45. Those front living room windows are bay windows, clearly designed to allow ample daylight into the properties. Due to its proximity and raised height the use of the car parking space will result in an increased degree of overlooking into the adjacent living room, from those entering and exiting cars, increased noise in close proximity as cars pull off and onto the space and increased light disturbance as headlights shine into the property as cars enter and leave the space in night-time hours.

11. When compared to the front garden that existed previously I consider that the current arrangement has caused substantial harm to the living conditions of adjacent residents, contrary to one of the core principles of the Framework, set out at paragraph 17, which is that planning should seek to secure a good standard of amenity for all existing and future occupiers of land and buildings.

Highway Safety

12. As noted above, few of the dwellings on Cornelius Street benefit from driveways and on street parking is clearly at a premium within the area, as I was able to witness at the time of my unaccompanied visit in the early evening. That said, I can see little benefit arising from the development in terms of overall parking provision in the area because the creation of a single space to the front of the property is off-set by the loss of kerbside space within the highway due to the need to provide access over the dropped crossing point.

13. I observed a car parked on the space at the time of my visit and, whilst space was limited, there was no significant overhang onto the pavement and no obstruction to passing pedestrians. The car was a normal family sized unit and there is no reason to suppose that it is not untypical of the kind of vehicle that is likely to utilise the space. There is insufficient room to turn around on the platform and users would be required either to reverse onto the space and leave in forward gear or drive on in forward gear and reverse out. Visibility is somewhat limited due to the presence of neighbouring walls and hedges but I would expect vehicle speeds to be low at the point of access/ egress and the situation is not significantly different to that which will be found on driveways of many residential properties. Consequently, I am satisfied that the development has not unduly increased the risk to other road users or pedestrians such that it complies with the aims of saved policy AM22 of the DP.

Other Matters

14. Two other off-road parking spaces have been created in the front gardens of Nos 27 and 31 Cornelius Street. It is unclear when those developments took place or if planning permission was granted for the work involved. Whilst similar to the development before me in some respects there are also differences. In particular, No 27 is one of a pair of semi-detached dwellings and the raised parking space is set to the side of the central front doorway. The layout of the attached dwelling at No 25 mirrors No 27 with a centrally placed doorway and living room window set to the side. Thus, the arrangement is such that there is a greater degree of separation between the car parking space and the living room window of the adjacent dwelling.

15. The arrangement at No 31 is not dissimilar to the appeal site but I note that a coniferous hedge has been planted to provide a screen between the parking space and the front window of the neighbouring dwelling; perhaps an indication that the neighbours felt the need to mitigate against the impacts of the parking space in terms of overlooking, noise and light pollution. In order to be effective, the hedge is at a height that is likely to block out light to the front window and reduce the outlook from the property. As such it is not a solution that would be appropriate at the appeal site.

16. In view of the above, the presence of two similar raised parking areas does not alter my views on the development before me. It is not clear that planning permission was granted for those developments or that the impact on the character and appearance of the street or on neighbouring properties was taken into account. The prevailing character of the area remains one of dwellings set back behind small front gardens and the creation of a raised parking area at the appeal site causes harm to that character for the reasons given. In addition, the development has caused harm to the living conditions of neighbouring residents and that harm could not be overcome by the imposition of conditions.

Overall Conclusion

17. For the reasons given I conclude that planning permission should not be granted for the development. Consequently, Appeals B and C fail on ground (a) and I shall dismiss all three appeals and uphold the enforcement notice.

Chris Preston

INSPECTOR