



Appeal Decision

Site visit made on 14 September 2020

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2020

Appeal Ref: APP/J0405/W/20/3254610
33, Bourton Road, Buckingham MK18 1BG

- 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 Peter Reynolds against the decision of Buckinghamshire Council- Aylesbury Area.
 - The application Ref 20/00337, dated 30 January 2020, was refused by notice dated 8 June 2020.
 - The development proposed is retention and completion of boundary wall and inclusion of land within residential curtilage.
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Decision

1. The appeal is allowed, and planning permission is granted for the change of use of land to domestic garden area and erection of a boundary wall and pillars at 33, Bourton Road, Buckingham MK18 1BG, in accordance with the terms of the application Ref 20/00337, dated 30 January 2020, subject to the following condition:
 1. The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan, block plan (scale 1:500), proposed plan (scale 1:100) and elevation drawing, all unreferenced and undated.

Procedural Matters

2. Subsequent to the submission of the planning application, but prior to its determination the Council merged to form a new unitary authority known as Buckinghamshire Council. The banner heading refers to that change. This does not have any bearing upon the determination of this appeal.
3. During my site inspection I noted that the vegetation had been removed from the land subject to the change of use and the construction of a wall resembling that shown on the refused plans had begun.
4. The description of development varies between the application form and the decision notice. However, in the interests of clarity I have amended this for the purposes of paragraph 1, as those documents make reference to matters which are not types of development.

Main Issue

5. The main issue is the effect on the character and appearance of the area, with particular regard to the site's function and the design, height and positioning of the proposed means of enclosure.

Reason

Character and appearance

6. The appeal site is an irregular polygon shaped parcel of land which adjoins the appellant's property. It fronts onto Bourton Road, a leafy, main route through this residential part of Buckingham, at the junction with Mallard Drive. A wide public grassed verge runs in front of the appellant's property and continues along this part of Bourton Road. The appeal site connects to that verge and wraps around the corner onto Mallard Drive. Properties in the locality tend to be set within gardens. There are a number of plot boundaries on this side of Bourton Road which are characterised by solid boundary enclosures in the form of fences, walls and hedgerows, some of which abut or are close to the back of the foot way.
7. The appellant seeks to enclose this recently acquired land parcel, with a high boundary wall in order to extend his front and side garden and increase on-site car parking. The resulting boundary walling would be visible within the street scene on approach in either direction, along both Bourton Road and Mallard Drive.
8. In terms of function, the status of the land as 'amenity open space' as part of a wider network of the adjacent residential estate is disputed between parties. Irrespective of this, the submitted evidence confirms that, prior to the commencement of works, the site was laid out as a planted area of relatively small proportions located on one side of the entrance into this more recently constructed housing development. Representations suggest that it was not particularly well maintained.
9. The site's function has therefore been visual, rather than possessing any recreational credentials. Its visual contribution to this residential street scene is very localised and within a green context of grass verges, other areas of public open space and private gardens. I find its loss to a private garden use would not, in itself, be significant to undermining the verdant character and visual aesthetic of the area.
10. In terms of the dispute regarding the design and height of the proposed boundary wall, I find that despite its solid construction that would negate views through, this would not be dissimilar to the characteristics of the existing intervening wall with the appellant's existing garden. Furthermore, the section of wall that would front onto Bourton Road would be of a similar height to and of materials to match the existing front boundary wall of No 33.
11. The remainder of the new wall fronting onto Mallard Drive would reflect the design associated with that more recent residential development, including the solid appearance, height and materials of construction of the existing side boundary wall of No 35a Bourton Road. Although of a slightly greater height, the appeal scheme would not be too dissimilar in design and materials from those walls and pillars that are situated to the front of other properties in the vicinity, notably Nos 35, 37, 39 and 41 Bourton Road.

12. In terms of the dispute regarding positioning, the appearance and use of that corner of the junction would change. The appellant's evidence includes a detailed visual assessment of the effect of the appeal proposal. My observations during the site inspection regarding the impact of that change concur with that evidence.
13. The openness of this relatively narrow land parcel was previously restricted in part by the former dense vegetation. Although the landscaping would be lost, the existing grass verge, trees and gardens within that part of the street scene would remain and continue to provide a wider green context. This coupled with my findings on the design of the proposed wall, lead me to find that the appeal scheme would not be stark, unduly intrusive or oppressive within the street scene. The reduction in the existing sense of openness and space of that junction area would not significantly undermine the character and appearance of the area.
14. For these reasons, I find that the appeal proposal would not be harmful to the character and appearance of the area, with particular regard to the proposed change in function of the land and the design, height and positioning of the proposed means of enclosure relative to the highway.
15. The Council has drawn my attention to paragraphs 127 and 130 of the National Planning Policy Framework (Framework). However, in the absence of any harm I find no conflict with the Framework.
16. In the absence of any harm, there is no conflict with Policy GP35 of the Aylesbury Vale District Local Plan (January 2004). Although weight may be afforded to Policy BE2 of the emerging Vale of Aylesbury Local Plan 2013-2033, in the absence of harm neither is there is conflict with that policy.

Other Matters

17. I agree with the Council's argument that the provision of additional car parking in itself would not be sufficient justification for the particular scheme given the existing on-site car parking associated with the host dwelling.
18. Furthermore, the Local Highway Authority have confirmed that the appeal scheme would not impact upon the visibility of highway users and no objection to the appeal scheme is raised. There is no substantive evidence that would lead me to dispute that assessment.
19. Therefore, the appeal scheme does not conflict with the development plan when taken as a whole.

Conditions

20. As the appeal scheme has commenced it is not necessary to attach a condition relating to implementation timescales. A condition specifying the approved plans is necessary to provide certainty. However, as the scheme has commenced and the materials used are appropriate, it is unnecessary to impose such a condition.
21. The Council has stated that the space that would remain between the footway and wall would be too small to successfully accommodate a landscaping scheme. In any event, I have found no visual harm to warrant such mitigation. Therefore, the imposition of that condition would not meet the prescribed tests

for conditions. However, this would not preclude the appellant from undertaking planting within the site.

Conclusion

22. For the reasons given, I conclude that this appeal should be allowed, and planning permission granted subject to the condition identified.

Carole Dillon

INSPECTOR