



Appeal Decision

Site visit made on 1 September 2020 by Darren Ellis MPlan

Decision by Susan Ashworth BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 October 2020

Appeal Ref: APP/R1845/W/20/3254013

39 Lynwood Drive, Blakedown, Kidderminster, DY10 3JZ

- 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 Mrs S Powell against the decision of Wyre Forest District Council.
 - The application Ref 20/0189/FUL, dated 3 March 2020, was refused by notice dated 7 May 2020.
 - The development proposed is the change of use of amenity land to domestic garden and fence enclosure.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The fence that is the subject of this appeal has already been constructed. I have dealt with the appeal on that basis.
4. The appellant asserts that the fence could be constructed without planning permission under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, whether or not the fence is permitted development is not for me to consider in the context of an appeal made under s78 of the above Act. I have therefore dealt with the appeal on the basis of the plans submitted to me.

Main Issues

5. The main issue is the effect of the development on the designated Local Green Space, with particular regards to appearance and openness.

Reasons for the Recommendation

6. Lynwood Drive is a residential street, with the properties backing on to a pedestrian thoroughfare called The Avenue. 39 Lynwood Drive a semi-detached dwelling about halfway along The Avenue. The proposal seeks permission for a fence that has been erected around a parcel of land to the rear of the existing garden and the change the use of this now-enclosed land to form part of the garden.
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7. Despite no longer being listed as an Asset of Community Value, The Avenue has been designated as a Local Green Space in the Churchill and Blakedown Neighbourhood Plan 2016 to 2026 (NP). The NP was adopted after the Site Allocations and Policies Local Plan 2006 – 2026 (adopted 2013) (LP), which does not provide any specific status to The Avenue. However, the NP forms part of the development plan against which the application was assessed. Paragraph 99 of the National Planning Policy Framework (the Framework) states that the designation of land as Local Green Space through neighbourhood plans allows communities to identify and protect areas of particular importance to them. The appellant has questioned whether the designation as Local Green Space meets the criteria set out in paragraph 100 of the Framework, however this falls outside the scope of this appeal.
8. Policy SAL.UP3 of the LP, which seeks to safeguard the Green Infrastructure Network, does not specifically identify The Avenue as an area to be safeguarded. Nevertheless, Policy CB7 of the NP is clear that new development which impacts adversely on the openness and visual amenity of Local Green Spaces will not be permitted except in very special circumstances.
9. The NP describes the historical significance of The Avenue, which was created as a short cut between Forge Lane and the railway station to avoid using a toll road and was planted with trees. The Avenue remains as a public thoroughfare lined with trees and vegetation, which creates a green and open character.
10. The proposed fence and garden area encroach into The Avenue, resulting in a reduction in the openness of the thoroughfare at this point. Furthermore, the height of the fence and its stark appearance jars with the green and open character of The Avenue.
11. I acknowledge that the fence aligns with the rear fences of the neighbouring properties to the north-east of the appeal site. However, I have no evidence before me to show when these fences were erected or when any previous amenity land in The Avenue was changed to garden areas, and therefore I cannot be certain that these developments have occurred since the NP was adopted and The Avenue was designated as a Local Green Space. As such, I can only attach limited weight to the presence of the neighbouring fences and the previous changes of use of amenity land to garden areas. Moreover, I noted from my site visit that these fences encroach into The Avenue causing it to narrow. As such the path is a less pleasant place to be at that point. The proposal before me, whilst limited in itself in terms of scale, would cause further incremental incursion into the space and thereby has an adverse impact on the openness and visual amenity of The Avenue.
12. I note that the original garden area associated with the property is limited in size and I understand the appellant's desire to provide additional garden space for their home. I attach limited weight to this private benefit. However, overall the weight afforded to the matters in support of the development do not outweigh the harm that has been caused. As such, I am not persuaded that these matters constitute very special circumstances for the purposes of Policy CB7 of the NP.
13. For the reasons given above, the proposal would conflict with Policy CB7 of the NP. The proposal also conflicts with Policy SAL.UP7 of the LP, which requires new development to contribute to local distinctiveness, integrate well within the existing street scene and to avoid inappropriate features.

14. For the reasons given above and having had regard to all other matters raised, including the letters of support for the proposal, I recommend that the appeal should be dismissed.

D Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

S Ashworth

INSPECTOR