



Appeal Decision

Site visit made on 12 October 2020

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd October 2020

Appeal Ref: APP/P1940/D/20/3255912

11 Lancing Way, Croxley Green WD3 3LW

- 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 & Mrs S Conway against the decision of Three Rivers District Council.
 - The application Ref 20/0690/RSP, dated 2 April 2020, was refused by notice dated 17 June 2020.
 - The development proposed is described as retrospective approval of raised patio to rear of dwelling and fences to side boundaries replacing existing fence and leaning wall on side boundary.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. During the determination of the application, the appellant submitted amended plans, which were not formally accepted by the Council. Both revisions reduce the height of the fence to approximately 1.8m above footway level. Revision G proposes an inner fence on the patio inset from the boundary and Revision H shows a 0.4m trellis on top of the boundary fence. I have also been asked to consider retaining a lower fence in the form of a scheme that was proposed (but not approved) for a previous application. The plans appear to differ from what I observed on my visit, as they show side elevations with a straight top panel/trellis or gate between posts, where there was a curved gate between brick pillars at my visit.
3. In the context of this appeal scheme, the revisions on the plans are significant changes that would materially alter the development from the appeal scheme. The Planning Inspectorate Procedural Guide: Planning Appeals – England 2020 states the appeal process should not be used to evolve a scheme, and what is considered by the Inspector should be essentially what was considered by the Council, and on which interested people's views were sought. Having regard to the Wheatcroft Principles¹, I have determined the appeal on the basis of the scheme on which the Council consulted upon and made their decision.
4. From the description above and as noted at my site visit, the appeal proposal has commenced as the patio has been constructed. I have considered the appeal on this basis.

¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

Main Issue

5. The main issue is the effect of the development upon the character and appearance of the host dwelling and the area.

Reasons

6. The appeal site comprises a generously sized dwelling and corner plot with a long side boundary on Malvern Way. The site was granted permission (Ref 19/2488/RSP) for the construction of a raised patio and fences to the side boundaries. This appeal scheme differs because part of the patio is not recessed to a lower level and the southern boundary fence is proposed to increase from a maximum of 2m above footway level, to a maximum of approximately 2.4m along the length of the patio, sloping down to approximately 1.8m – 2m either side.
7. Boundary treatments of properties fronting Malvern Way and Lancing Way are generally characterised by limited extents of low level walls and fencing. Along many of the gardens that have a side boundary adjoining the footway nearby, most boundaries are approximately 1.8 – 2.1m in height with sections of broadly uniform heights. The height of most of this revised section of fence is significantly higher than most boundary treatments visible nearby. The high solid fence adjoining the footway for a limited distance would result in a limited amount of harm by reason of its enclosing and overbearing effect for those using this part of the footway.
8. The fence would rise up to its maximum uniform height along the depth of the patio before falling steeply back down to the remaining fencing. The proposed sloped rising and falling occurs over different panel depths and angles. It would look contrived and create a prominently visible high level irregular shape in a largely similar height boundary. The combination of the location in close proximity to a junction, irregular shape and significant height means this appeal scheme fence would be an incongruous and harmful feature to the character and appearance of the street scene and to the host dwelling.
9. The dwelling provides a visual backdrop but is set further back and the contrast in materials and appearance does little to mitigate its effect. The wall at the street corner has a single slope, is of a lower height, different materials, and has a significant beneficial effect upon the openness of the street scene. The fence and trellis adjoining No 9 has limited visibility at a greater distance and the single high fence post would be small in extent. None of these justify allowing this appeal scheme.
10. I do not have the full details and circumstances that lead to the construction of any of the examples of other boundaries provided. Therefore, a direct and fully reasoned comparison with the appeal scheme is not possible. However, the examples at Nos 191 – 193 Baldwins Lane, 2 Sherbourne Way, 2 Lancing Way, 2, 24 and 64 Malvern Way, 14 and 16 Lancing Way, have boundary treatments of a lower height or with hedgerows, and without the same double and irregular angled panel arrangement of this appeal scheme. Nos 14 and 16 Lancing Way have an enclosing effect, however, the side elevations are well finished and considerably different in character and appearance to the appeal proposal. No 3 Lancing Way is a pergola, and so of a completely different form and appearance to the appeal proposal.

11. The examples at Barton Way, Baldwins Lane, Durrants Drive and Dulwich Way are read in the context of different areas and street scenes some distance from the appeal site, approximately 200m – 500m away. Whilst some I was able to see exhibited a single sloped/angled fence, none exhibited the same irregular rising and falling profile of the appeal proposal. By reason of their location, form and shape, none represent a direct parallel to this appeal development, which I have considered on its own merits in the context of the character and appearance of this area.
12. The Council has set out an objection to the raised patio itself. However, the area of the higher surface would have little visibility from surrounding dwellings or public areas. Furthermore, the approved plan before me and the appeal plan both indicate a similar size of plinth visible on Malvern Way. The height of this appeal scheme fence and the perspectives and distances from the street scene and nearby properties, means the visibility of people on the patio would be limited. Its use would also be likely to have some degree of seasonality. Consequently, based upon the evidence before me, this scheme would not be detrimental to the character and appearance of the dwelling or area due to the visibility of the patio itself or those using it. However, this does not mitigate the other harm I have found to character and appearance.
13. For the reasons set out above the development would be harmful to the character and appearance of the host dwelling and the area. Therefore, it would conflict with Policies CP1 and CP12 of the Core Strategy (2011) and Policy DM1 and Appendix 2 of the Development Management Policies Local Development Document (2013). In combination and amongst other things the policies seek a high standard of design and expect development to have regard to, protect and enhance the character, appearance and quality of an area.

Conclusion

14. For the reasons set out above and having regard to all the matters raised, the appeal should not succeed.

Dan Szymanski

INSPECTOR