
Appeal Decision

Site visit made on 26 March 2021

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 May 2021

Appeal Ref: APP/C3240/W/20/3264757

9 Churchill Close, Newport TF10 7GY

- 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 Alfred Charles Dixon against the decision of Telford and Wrekin Council.
 - The application Ref TWC/2020/0844, dated 24 September 2020, was refused by notice dated 18 November 2020.
 - The development proposed is described as the relocation of garden wall closer to property boundary but maintaining the same distance from the road as other areas on the development. This ensures it has no negative effect on line of sight and mimics other areas on the estate with the same conditions.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The appellant states that the proposal could qualify as permitted development (PD) and, if so, that it would not require planning permission. The Council contests that opinion. Whether or not the proposed development constitutes PD is not a matter for me to determine in the context of an appeal made under section 78 of the above Act. It is, however, open to the appellant to apply for a determination under sections 191/192 of the above Act to determine this matter. My determination of this appeal does not affect the issuing of a determination under s191/192 of the same Act.

Main issue

3. The main issue is the effect of the proposed development on the character and appearance of the local area.

Reasons

4. The appeal property is a detached two-storey house that addresses Churchill Close within a new residential estate. A brick wall encloses the garden at the back of No 9, which protrudes just beyond the flank wall of the main house. As No 9 occupies a prominent corner plot, both the side elevation of the main house and its boundary wall are noticeable features in the local street scene.
5. To front and side of the appeal dwelling is an open grassed area save for two young trees that follows the curve of the road. For brevity, I shall refer to this grassed area as 'the site'. From the submitted details, the site is identified within the approved residential scheme as a landscaped area with two trees.

6. The proposal is effectively to reposition the existing boundary wall to enclose part of the site within the garden of No 9. The new wall would match the height and general appearance its existing counterpart. In doing so, the proposal would introduce a new built form onto what would otherwise be open green space that positively contributes to the character and appearance of the local area. It does so by adding to the quality of the local environment by providing a notable visual break between existing buildings and establishing a welcome sense of openness next to the road within the local street scene. The site also visually 'softens' the appearance of the flank and boundary walls of the appeal dwelling when seen from the road, as will the two roadside trees planted within it as these grow over time.
7. Although the new wall would be closer to the highway than the existing structure, a reasonable gap would be maintained to the adjacent footway to allow some meaningful planting to take place, as suggested by the appellant. With climbing plants in place, the solid appearance of the new built form would be subdued to some extent. Even so, the new wall would be nearer to the highway than the existing wall and so it would gain prominence in the streetscape. That the new wall would project further away from the existing house would also draw the eye. The proposal would also noticeably reduce the open landscaped area that would be visible in the public domain even if a landscaped strip were to be retained next to the footway. In doing so, the appeal scheme would curtail the attractive open view across the site from the adjacent road and diminish the spacious feel to the local street scene. The main outcome would be significant harm to the visual character and overall quality of the local area.
8. In reaching this conclusion, I have taken into account the examples of brick boundary walls placed at a similar distance to the road on corner plots elsewhere within the same estate to which the appellant has referred and provided details and photographs. Having walked around the estate and seen each of the examples cited 'on the ground', I agree that brick walls are a noticeable feature on some plots. Nevertheless, it is a central principle of the planning system that each proposal should be considered on its own merits and my assessment reflects the particular characteristics of the site and the individual circumstances of this case. From what I saw, none of the examples identified occupied the same street scene as the site nor were directly comparable with the visual impact of the proposal. Consequently, these particular examples do not weigh in support of the appeal.
9. Reference is also made to the opportunity to erect a boundary wall in the same position through the exercise of PD rights. However, the Council contests that the proposal would qualify as PD and a new wall at a height of one-metre, as suggested, would have less impact than the proposal, which would be taller and appear more substantive. The existence of PD rights is insufficient reason to permit otherwise unacceptable development.
10. Paragraph 130 of the National Planning Policy Framework (the Framework) states that the quality of approved development should not materially diminished between permission and completion, as a result of changes being made to the permitted scheme. By introducing an unwelcome and visually intrusive element, the proposal would fail to comply with this policy.

Conclusion on the main issue

11. On the main issue, I conclude that the proposed development would cause significant harm to the character and appearance of the local area. As such, it conflicts with Policy BE 1 of the Telford & Wrekin Local Plan 2011-2031. This policy states that the Council will support development that responds positively to its context and enhances the quality of the built environment. It also conflicts with the Framework, which states that planning decisions should ensure that development is sympathetic to local character and adds to the overall quality of the area.

Other matters

12. The appellant owns the site and regards it to be residential land used in association with the dwelling. However, ownership is a separate issue to the use of that land and the potential erection of a building on it.
13. The appellant states that enclosing part of the site, as proposed, would reduce the prospect of criminal activity and that it would make efficient use of the land. Additional planting could improve the opportunities to encourage wildlife. The proposal would also reduce the opportunities for overlooking into the ground floor side window of the house. Newport Town Council and other local residents raise no objection. However, these matters do not outweigh the significant harm that I have identified in relation to the main issue.
14. If the appeal were to be dismissed, the appellant states that other options for the site include the removal of the existing grass and trees and it's resurfacing with gravel. According to the Council, these alternatives could depart from the approved plans for the estate and a condition imposed at the reserved matters stage. These matters are beyond the remit of this appeal.
15. An interested party raises concern that the proposal would impede visibility for road users and therefore pose a safety hazard to road users and to children playing along the highway. The Council's Development Management (Highways) considers that the proposal will not result in detriment to highway safety. I have no reason to disagree with that finding.

Conclusion

16. Nevertheless, for the reasons set out above, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR