



Appeal Decision

Site visit made on 25 January 2022

by Peter D. Biggers BSc Hons MRTPI

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

Decision date: 31 January 2022.

Appeal Ref: APP/H0520/D/21/3281967

16 Philip Gardens, Eynesbury, St Neots Cambridgeshire PE19 2QJ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Robert Whitelaw against the decision of Huntingdonshire District Council.
 - The application Ref 20/01858/S73, dated 21 September 2020, was refused by notice dated 4 March 2021.
 - The application sought planning permission for change of use from public amenity space to private residential garden and relocation of garden wall without complying with condition Nos 2 and 3 attached to planning permission Ref 18/01700/FUL, dated 31 October 2018.
 - The conditions in dispute are Nos 2 and 3 which state that:
 - 2) The development hereby permitted shall be carried out in accordance with the approved plans listed in the table above.
 - 3) The proposed change in use and relocation of garden wall hereby permitted shall be constructed in accordance with the materials as specified within information submitted as part of this application for planning permission (received 25/10/2018) as matching bricks to existing garden wall unless submitted to and agreed otherwise in writing by the Local Planning Authority.
 - The reasons given for the conditions are:
 - 2) For the avoidance of doubt to ensure that the development is carried out in accordance with the approved plans
 - 3) In the interests of visual amenity in accordance with Policy En25 of the Huntingdonshire Local Plan, 1995.
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Decision

1. The appeal is allowed in part and planning permission is granted for change of use from public amenity space to private residential garden and relocation of garden wall at 16 Philip Gardens, Eynesbury, St Neots Cambridgeshire PE19 2QJ in accordance with the application Ref 20/01858/S73, dated 21 September 2020, without compliance with condition Nos 2 and 3 previously imposed on planning permission Ref 18/01700/FUL, dated 31 October 2018. The new planning permission will be subject to the other conditions imposed in Ref 18/01700/FUL so far as the same are still subsisting and capable of taking effect together with a varied plans condition and an additional condition requiring a soft landscaping scheme to be submitted. (See Schedule of Conditions below).

Procedural Matter

2. In submitting his appeal statement the appellant has raised a number of concerns
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relating to the Council's handling of the application. I cannot deal with these procedural complaints here and the appellant will need to pursue these, if he wishes to do so, through the Council's complaints procedure and if necessary the Local Government Ombudsman. My decision will therefore only deal with the planning matters of the case.

Main Issue

3. The main issue is whether the conditions are necessary and reasonable to ensure there is no adverse effect on the character and appearance of the surroundings on Philip Gardens.

Reasons

4. Philip Gardens, where the appeal site is located, is part of a modern residential estate of terraced and semi-detached brick-built housing. In addition to small private gardens to the properties, the estate is characterised by small areas of grassed and planted amenity strips one of which is located to the west side of No 16 Philip Gardens.
5. Permission was granted in 2018 to the appellant to change the use of part (approximately half) of this amenity area to private garden along with the relocation of the brick-built garden wall to form the new boundary; a requirement that was the subject of a condition (No 3).
6. The appellant applied retrospectively to vary the plans in order to construct a pedestrian gate into the garden and to replace the permitted wall around the new boundary with a close-boarded fence which at the time of my visit was complete.
7. I took the opportunity of the site visit to review the character of the estate in the vicinity of the appeal site and saw that there were several locations where timber close-boarded fences formed boundaries to properties, some in locations just as visible from the public domain as the appeal site. Whilst there are also some brick-built boundary walls, the timber fences are now as much a part of the character of the estate as the walls.
8. I acknowledge that the *Huntingdonshire Design Guide* (HDG) advice with respect to boundaries is that close-boarded fencing should be avoided in locations facing the public realm and that if the side or rear walls are in the public realm then these should be either solid wall or high hedge, or a combination of both. However, in the context of Philip Gardens where fences are used in a number of visible locations, I am satisfied that the principle of using timber close-boarded fencing would not necessarily be inappropriate and therefore condition No 3 is not necessary. I do accept though that the side boundary is of considerable length along the whole side of the property and regardless of whether it is constructed as a wall or fence, as set out in the supporting text to Policy A3 of the *St Neots Neighbourhood Plan* (SNNP), high quality hard and soft landscaping can help to successfully integrate development into the wider environment.
9. That being the case, to soften the appearance of the fence and integrate it better with the character and appearance of the amenity space and the estate it would be necessary and reasonable to impose an alternative condition to the original No 3 requiring the submission, implementation and maintenance of a soft landscaping scheme to the front faces of the fence. The Council has proposed such a condition in the appeal questionnaire and the appellant has not raised any objection to it.

10. With regard to condition No 2 in its original form in permission 18/01700/FUL, it related to a different set of plans and therefore the original condition No 2 is no longer necessary. However, the amendment to the plans and substitution of alternative materials should be controlled and to allow the Council to control the amendments and ensure the completed work accords with the submitted plans in application Ref 20/01858/S73 it is necessary to reattach a revised condition requiring compliance with the revised set of plans.
11. Although not raised by either the appellant or the Council, condition No 6 on the original permission, relating to maintaining the hedge edging the amenity space along the back of footpath line at a height no greater than 0.6 metres, is no longer necessary as the hedge had been removed at the time of my visit. I therefore have not reimposed condition No 6.

Conclusion

12. I am satisfied that the change of use of the amenity land to private garden without complying with condition No 3 requiring the relocation of the boundary wall would not unduly harm the character and appearance of Philip Gardens subject to the addition of soft landscaping to the front faces of the boundary fence already erected. Condition No 3 is therefore no longer necessary but in the interests of preserving the character and appearance of the surrounding area it is necessary to attach a condition requiring a scheme of soft landscaping to be submitted and approved. With this in place I am satisfied that Policies LP11 and LP12 of the *Huntingdonshire Local Plan* dealing with place-making and design implementation respectively, as well as Policy A3 of the SNNP on design would not be conflicted.
13. The appeal is allowed in part and a new permission granted without condition Nos 1 (as the change of use has taken place), 3 and 6 previously imposed on planning permission Ref 18/01700/FUL, but subject to the other conditions imposed therein, together with a varied plans condition (previously No 2) and an additional condition requiring the provision of soft landscaping along the boundary fence.

P. D. Biggers

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the approved plans: D1 Location plan; D2 Proposed layout plan; D3 Proposed elevation together with the plans SK02 and SK04 approved as part of the original permission 18/01700/FUL.
- 2) Prior to the commencement of the proposed use visibility splays shall be provided in full accordance with the details indicated on the submitted plans Nos SK02 and SK04. The splays shall thereafter be maintained free from any obstruction exceeding 0.6m above the level of the adjacent highway carriageway.
- 3) Prior to the commencement of the use hereby permitted visibility splays of 2m x 2m shall be provided to the south of number 15 to the south side of the vehicular access measured from and along the highway back of the footway.

Such splays shall thereafter be maintained free from obstruction exceeding 0.6m above the level of the highway footway.

- 4) Within two months of this permission full details of soft landscaping works to form a shrub and hedge screen in front of the fence hereby permitted, to include:
- i. Planting plans;
 - ii. Schedules of plants (noting species, plant sizes, proposed numbers and densities);
 - iii. Full details of landscape maintenance regimes;
 - iv. An implementation programme for the soft landscaping works;
- shall be submitted to the Local Planning Authority for their approval in writing.

The soft landscaping works shall be carried out in full, in accordance with the approved details, during the first planting season after approval of the details.

Any trees or plants which are planted in connection with the approved soft landscaping works which within a period of five years from planting, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of the same size and species as those originally approved.