



Appeal Decision

Site visit made on 24 May 2022

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17th June 2022

Appeal Ref: APP/U3935/W/22/3292011

44 Wagtail Close, Swindon SN3 5BL

- 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 Miss Kelly Castle against the decision of Swindon Borough Council.
- The application Ref S/21/1860/EMMI, dated 25 November 2021, was refused by notice dated 20 January 2022.
- The development proposed is change of use from public open space to domestic garden.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - the character and appearance of the area, and
 - The safety and security of users of the public footpath network.

Reasons

Character and Appearance

3. The area consists of a modern housing estate, with a planned and ordered layout of streets and dwellings. Hard surfacing formed by the road and car parking areas give it a relatively high-density appearance.
4. The appeal site consists of a small area of public open space, adjacent to the appellant's property (No 44) and a public footpath. The appellant has sought to manage and maintain the space but its public use and location results in unpleasant dog fouling, rubbish and detritus being left on the grass, which detracts from the area's character. To some extent, the proposal would help to tidy up the site and its surroundings.
5. Nevertheless, although somewhat overgrown, I saw that the site's open, green form provides a degree of relief from the hard suburban density of the surrounding area. As such, the proposed use and resultant enclosing of the space with close boarded fencing, would by reason of its height and hard, solid material, add to the area's dense appearance. The proposal would also significantly and harmfully diminish the open contribution that the site makes to its surroundings.

6. A one metre strip of land outside the fence boundary has been proposed, in response to a request from the Council. Even so, the strip's narrow width and position would do little to soften the impact of the fence and be difficult to maintain. This would further detract from the character of the area, conflicting with paragraph 3.43 of the Swindon Residential Design Guide Supplementary Planning Document 2016 (the SPD).
7. I saw that locally many close-boarded fences have been erected on the footpath boundary, and in other locations throughout the estate. The proposed fencing would be similar in height to these examples. The gable-ends of dwellings also provide a hard edge to the footpath's boundaries.
8. However, these fences and walls only add to the denseness of the area's character, from which the appeal site provides a welcome contrast. Furthermore, few if any of the nearby fences appear to result from the enclosing of public open space. Instead, they largely follow established plot boundaries, and so are not directly comparable to the appeal proposal.
9. I therefore conclude that the proposal would harm the character and appearance of the area. As such, it would be contrary to Policies DE1 and SD1 of the Swindon Borough Council Local Plan adopted March 2015 (SBLP), and the SPD, which all require that development respects the character of the site and its surroundings. For similar reasons it would also conflict with paragraph 130 of the National Planning Policy Framework (the Framework), which requires that development should be sympathetic to local character.

Safety and Security

10. I am told that the area of open space has sometimes been abused, and that dog fouling has resulted in unpleasant experiences for the appellant, including from users of the footpath. There is always the potential for anti-social behaviour on such areas of open space.
11. However, the proposed development and resultant fencing, by reason of its height and position, would reduce the sightlines available from the front windows of 38 to 42 Wagtail Close over the public footpath and the corner beyond. As a result, this part of the footpath would not have the same extent of natural surveillance as that currently available.
12. This loss of surveillance would give a perception that the footpath is less safe, conflicting with paragraph 3.37 of the SPD, and the net effect of the proposal would be detrimental to public safety. Although there is other fencing forming the boundary with the footpath, this does not justify the reduction in the sense of security of footpath users that would be caused by the appeal proposal.
13. I conclude that the proposal would harm the safety and security of users of the public footpath network. As such, it would be contrary to Policies DE1 and SD1 of the SBLP as well as the SPD, all of which require development to promote safe and secure communities, as does paragraph 92 of the Framework.

Other Matters

14. No representations were made in respect of the proposal by local residents or the Parish Council. I have however made my own decision based on the evidence before me. I have also noted comments made about the Council's handling of the intended purchase of the land, and the expense to the

appellant. I understand the appellant's frustration, but this does not have a bearing on my consideration of the planning merits of the appeal.

Conclusion

15. For the reasons given above, having considered the Development Plan as a whole and all other material considerations, including the Framework, I conclude that the appeal should be dismissed.

O Marigold

INSPECTOR