



Appeal Decisions

Site visit made on 15 June 2022

by S A Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 July 2022

Appeal A Ref: APP/P0119/C/22/3291703

Appeal B Ref: APP/P0119/C/22/3291704

Land at 27 Swallow Drive, Patchway, Bristol BS34 5RF

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. Appeal A is made by Mr Hardeep Konsal and Appeal B is made by Mrs Amrit Konsal against an enforcement notice issued by South Gloucestershire Council.
 - The notice, numbered COM/19/0406/OD/1, was issued on 16 December 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission, the change of use of land from open amenity space to residential use, including the erection of a two metre fence to facilitate the use in the approximate location marked black on the attached plan and as shown in the photographs at Appendices one and two to this notice.
 - The requirements of the notice are to: 1. Remove the close boarded wooden fence and all associated materials from the land. 2. Cease the residential use of land and restore the land to its condition before the breach took place. 3. Reinstate a brick boundary wall on the original boundary line.
 - The period for compliance with the requirements is: Three months.
 - The appeals are proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the appeals have been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeals are dismissed and the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Background

2. Planning application P19/11920/F was refused on 29 November 2019 for the erection of a 2 metre high fence to facilitate the change of use of land from open amenity space to private amenity space (Class C3) as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended) (retrospective). The decision was appealed under ref APP/P0119/W/20/3248239 and dismissed on 20 July 2020.

The appeals on ground (a) and the deemed planning application

Main Issue

3. This is the effect of the development on the character and appearance of the area.

Reasons

4. The appeal property is a two-storey end terrace dwellinghouse within a residential area. It is located in a 1970s housing estate in a Radburn layout typified by the rear areas of properties facing the street and the fronts of properties facing footpaths and greenspace. The estate is characterised by distinctive and repeated design elements with brick built boundary walls and areas of grassed open space dotted with trees that provide a sense of openness and relief from the quantum of buildings.
5. The property faces outwards towards a pathway beyond which is a large area of green open space. To the side and rear of the property is the main footway that links the estate to further pathways which pass through and around surrounding estates and areas of recreational space.
6. The appeal development consists of a tall wooden fence that has been erected around a parcel of land that was previously open. The width of the section of land incorporated into the private garden is reported by the council as approximately 3m in width and 15m in length. The loss of this section of land behind the fence has substantially reduced the width of an important pedestrian route which is a significant design feature of the original estate layout and wider area.
7. The location and height of the fence significantly diminishes the openness of this main walkway and has a negative visual effect on the pedestrian route into and out of the estate. Furthermore, the fence is visually dominant, being viewed from the front, the side and rear of the property. Due to its siting, materials and scale, it is a discordant addition, particularly when viewed from the front of the house.
8. I note that there are other examples of timber fences, some of which I saw when I visited the site and others displayed in photographs provided by the appellant. Whilst the examples in Swallow Drive clearly show the use of fencing, these appear to enclose existing boundaries of the host properties. They do not appear to have incorporated land that was previously considered as open space which formed part of the overall layout of the estate. Furthermore, they are generally situated to the rear of properties. Nevertheless, whilst I am not fully aware of the circumstances or indeed the planning status of the examples, these other developments do not justify the harm I have identified.
9. The development fails to reflect the character of the area and its distinct style. It is harmful to the character and appearance of the area and in this regard, there is conflict with Policy CS1 of the South Gloucestershire Local Plan: Core Strategy (Adopted) December 2013 and Policy PSP1 and PSP38 of the South Gloucestershire Local Plan: Policies, Sites and Place Plan (Adopted) November 2017 and the National Planning Policy Framework. These policies, amongst other things, seek the highest possible standards of design which respect and enhance the character and amenity of both the site and its context, and respond to the characteristics that make a positive contribution to the distinctiveness of the locality.
10. As part of the appeal under ground (a) the appellant suggested that reducing the height of the fence and/or painting it a brick/red colour 'in keeping' with the local area could be considered as a 'means of compromise'. Whilst there is

no reference to a particular measurement, a reduction in height could lessen the visual impact of the development to an extent. However, it would remain that the previously open land would be enclosed by a boundary treatment constructed of a discordant material, even if it was painted a brick colour. Overall, the appellants' suggestions of an alternative scheme would not satisfactorily overcome the harm identified and the purpose of the notice and would remain in conflict with the development plan, read as a whole.

Other Matters

11. I acknowledge the level of support for the appellant and the reasons for replacing the wall and enclosing the land. However, these considerations do not outweigh the harm I have found and consequently the conflict with the development plan.

Conclusion

12. There are no material considerations that indicate the deemed planning application should be determined other than in accordance with the Development Plan. For the reasons given I conclude that the appeal on ground (a) should not succeed, and I shall refuse to grant planning permission on the deemed application.

S A Hanson

INSPECTOR