



Appeal Decision

Site visit made on 27 June 2023

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 July 2023

Appeal Ref: APP/D0121/W/22/3311665

2 Westbury Crescent, Weston-Super-Mare BS23 4RB

- 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 Tony Hobden against the decision of North Somerset Council.
 - The application Ref 21/P/3483/FUL, dated 22 November 2021, was refused by notice dated 26 May 2022.
 - The development is described as the "Regularisation of use of land attached to 2 Westbury Crescent as residential amenity space relating to 2 Westbury Crescent".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's Decision Notice referred to a number of policies, including SA8 of the North Somerset Site Allocations Plan (2018) (SAP). During the appeal process, the Council noticed the reference to SA8 was a typographical error, and that the relevant policy was SA6. The Council's appeal statement referred to Policy SA6 and the appellant has had an opportunity to comment upon this policy in the appeal process. I am satisfied that there is no requirement to seek further comment from the parties, and that in taking such an approach no party or their cases would be prejudiced.
3. It was apparent from my visit that the change of use had taken place and that fencing had been erected, some of which was approximately 1m in height, whilst other sections were higher. Tall fencing was the subject of an appeal dismissed in 2021 (appeal reference: APP/D0121/D/21/3268243). The submitted drawings show the area of land that is the subject of the appeal, but do not depict the fences or the summerhouse. Both the Council and the appellant have considered the proposal with regard to the change of use and the impact of the associated fences and outbuilding. Notwithstanding the description of development set out above, which is taken from the original application form, it is clear from the accompanying details that the development comprises the change of use and the ancillary structures. The Council have determined the application on this basis, and based on the evidence before me, so shall I.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. The appeal property is a detached house positioned within a mostly residential area comprising similar ages and styles of houses, bungalows and apartments. The houses and bungalows within the estate are set back from the public highways behind similar sized, regularly shaped front gardens, and this creates a spacious setting to the public realm. In addition to the open nature of the front gardens, there are areas of public open space to either side of road junctions and also other larger areas, such as that near 2 Westbury Crescent (No 2). Taken as a whole, the estate has a cohesive, planned appearance with the mostly open front gardens and numerous areas of public open space providing long views and a spacious, open appearance that is a distinctive element of the character and appearance of the area.
6. No 2 was the former vicarage to St Barnabas' Church and the relationship of these buildings and their detached appearance, along with their setting in a large area of open space, makes them prominent within the estate. Given this, the extension of the garden up to the public highways is conspicuously visible within the area, including from long distances away such as from Loxton Road. The combined effect of the large size of the garden, its essentially triangular shape, along with its close proximity to the roads and footpaths, is such that it forms a harmfully incongruous feature within the estate.
7. This incongruity is exaggerated by the property being the only one in the area that has long, continuous fences very close to the public highways. A wire fence remains in position near to the house, but despite this the appeal site has a legible domestic appearance, which derives not only from its enclosure by fences, but also from the planting that has occurred, the mown lawns, and the provision of a summerhouse very close to Christon Terrace footpath. In an area comprising properties with mostly open plan front gardens of a modest size and regular form, the change of use results in a large, irregular shaped garden that appears eye-catchingly conspicuous.
8. The appellant has drawn my attention to other properties with enclosed gardens. However, most of the nearby gardens that bound the public highways are open, and where there are hedges, walls and fences in most cases they are of modest heights. To the rear of the church is a tall wooden fence, but as it is separated from the public footpath by a deep area of public open space, this fence does not create the intimidating enclosure of the footpath that derives from the appeal proposal. Evergreen cypress has been planted to the rear of the low sections of fencing. Nevertheless, landscaping cannot be relied upon to screen a proposal for its lifetime, and in this case the presence of a

hedge would not mitigate the size of the garden, its irregular shape, and the immediacy of its juxtaposition with the public realm.

9. The appellant has referred to the garden being a side / rear garden rather than a front garden. However the area is described it does not ameliorate its harmful prominence that draws the eye from a number of different viewpoints. There is local support for the scheme, with reference being made to the change of use having improved the appearance of the area. When approaching the site from the south or east, the change of use forms an abrupt interruption of the public open space that exists to either side of the footpath along Christon Terrace. In addition, the scheme also harmfully interrupts the linear continuity of the green verge that exists in front of the church and No 2 along Westbury Crescent, thereby further compounding the incongruity of the use.
10. For these reasons the use would unacceptably harm the character and appearance of the area, and the suggested conditions would not overcome this harm. The scheme would fail to accord with Policy CS12 of the North Somerset Core Strategy (2017), Policy DM32 of the Council's Sites and Policies Plan (2016) and SAP Policy SA6. These seek, amongst other things high quality development that responds sensitively to existing local character and setting, thereby reflecting objectives of the National Planning Policy Framework.

Other Matters

11. There would be personal benefits for the appellant and his family from a larger, secure private space. Nevertheless, the harms I have found would continue to exist long after the personal circumstances have ceased to be relevant, and as identified by the previous Inspector, such benefits could be achieved through other means.
12. Matters of alternative fencing, land ownership and maintenance, restrictive covenants and occurrences of anti-social behaviour would be matters for the relevant parties to consider separate from the appeal process.
13. Finally, the appellant's concerns regarding the Council's handling of the case relate to procedural matters and have no bearing on my consideration of the planning merits of the appeal.

Conclusion

14. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR