
Appeal Decision

Site visit made on 29 June 2023

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 August 2023

Appeal Ref: APP/C3105/W/23/3315949

19 Fairford Way, Bicester, Oxfordshire OX26 4YG

- 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 Dean Lennon against the decision of Cherwell District Council.
 - The application Ref 22/02403/F, dated 8 August 2022, was refused by notice dated 24 November 2022.
 - The development proposed is the change of use from amenity land to domestic garden and the erection of a fence along the boundary line adjacent to the footpath.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of the development as set out by the Council as I consider that it reflects matters more accurately. The development has already been undertaken and I saw it at my visit to the area.
3. Within the context of an appeal under section 78 of the Act it is not within my remit to formally determine whether the proposed development requires planning permission as questioned by the appellant. If the appellant wishes to ascertain whether the development is lawful, they may make an application under section 191/192 of the Act.

Main Issue

4. The main issue in this appeal is the effect of the development on the character and appearance of the area.

Reasons

5. The appeal relates to the side area adjacent to the house and garden of this detached 2 storey house. Apart from the neighbouring house at No 18, which is the subject of a separate appeal, the houses within the area that I saw all have open frontages with no enclosing boundary feature such as a fence or wall and some have plants. Where properties have their rear garden boundaries adjacent to the roads, the privacy of the occupiers is protected by brick walls which are generally set behind open amenity land and/or planting.
6. On the opposite side of the road to the appeal site is a wide green area containing trees and other plants, behind which are more residential properties. The open frontages and the planted and open areas contribute positively and

significantly to the character of the area. The result is that the area has an open and leafy character where openness and soft landscaping is a striking and positive feature. This is an obvious and planned feature of the area and arises from the original planning permission for the area (Ref 78/00341/S) for the erection of 87 two storey dwelling houses and contains condition 5 which removed the permitted development rights for the erection of gates, fences, walls or other means of enclosure to the front of dwellings.

7. The appellant has removed the previous side wall which formed the boundary between the rear garden area of the house and the amenity land adjacent to the highway. He has then erected a wooden fence of around 1.8m in height which runs at the rear edge of the pavement. He has incorporated the amenity land within the rear garden area. Compared to the strong and prevailing open character of the area, I consider that the fence appears significantly out of place and is contrary to the character that I have identified. Rather than appearing as a green and natural feature, providing space between the pavement/road and the boundary of the gardens, it appears harsh and presents a hard edge to the back of the pavement. I have noted that it runs adjacent to the fence at No 18 but it is acknowledged that this is also unauthorised and the subject of an appeal.
8. The appellant states that the previous wall was in a poor state and the amenity area attracted litter and dog fouling. I can appreciate that this must have been unacceptable for the appellant. However, I note that other similar areas within the locality do not appear to suffer from this and I do not accept that the erection of the fence and enclosing this area is the only means of resolving any such issues, particularly within an area where open areas such as this are such a significant and positive feature. Therefore, the appellant's concerns in this respect do not outweigh the negative effects that the development has on the area.
9. As a result of my consideration of the appeal, the development is contrary to Policy ESD15 of the Cherwell Local Plan Part 1 (2011-2031) and Saved Policy C28 of the Cherwell Local Plan 1996. I find that there are no matters which are sufficient to outweigh that conflict, consequently, the appeal is dismissed.

T Wood

INSPECTOR