



Appeal Decision

Site visit made on 8 August 2023

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 25 August 2023

Appeal ref: APP/Y0435/D/23/3320861

17 Collingwood Gardens, Brooklands, Milton Keynes MK10 7FP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal of planning permission.
 - The appeal is made by Miss Sarina Patel against the decision of Milton Keynes Council.
 - The application, ref. 22/02823/HOU, dated 15 November 2022, was refused by a notice dated 9 February 2023.
 - The development is the relocation of the boundary wall and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the relocation of the boundary wall and associated works at No. 17 Collingwood Gardens, Brooklands, Milton Keynes MK10 7FP in accordance with the terms of the application, ref. 22/02823/HOU, dated 15 November 2022, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Revision drawing P-6250-01 REV A dated April 2023.

Revision drawing P-6250-02 REV A dated April 2023.

Main issue

2. The decision turns on whether or not the relocated rear garden wall of the dwelling at No. 17 would have an unacceptably detrimental effect on the street scene and those using the adjoining public footway.

Procedural matter

3. Subsequent to the Council's refusal to issue a planning permission for the new wall position, the Appellant Miss Patel submitted revision drawings P-6250-01 REV A and P-6250-02 REV A. The revision plans showed the north-eastern corner of the proposed new wall cut back to reduce any loss of visibility between vehicles emerging from the parking space next door. However, the Council said the plans to be considered were the original plans, reference P-6250-02 and P-6250-01.
4. The case of *Bernard Wheatcroft Ltd v SSE & Harborough DC* [1982] JPL 37 determined that an amendment to the application plans can be accepted on appeal and approved through a conditional planning permission. That is, provided there is

no substantial difference between what was originally applied for and the amended scheme. That is the situation here. The cutting back of the corner to reduce any loss of visibility between vehicles emerging from the parking spaces and pedestrians on the footway would be a small improvement to the original application layout. It also addresses the Council's second reason for refusal. Accepting this minor amendment does not substantively deprive those who should have been consulted of an opportunity for comment on this variation.

Considerations

5. A 2m high brown brick wall extends from the rear wall of Miss Patel's house at No. 17 Collingwood Gardens to the carport at No. 19 next door. There is a strip of landscaping on the road side of the wall in the ownership of Ms Patel that lies between the existing garden wall and the public footway to Collingwood Gardens. It is Ms Patel's intention to replace the existing wall with a new wall of similar appearance along the boundary of the 2 ownerships, slightly enlarging No. 17's rear garden.
6. The Council's concern was that the new position of the 2m high wall would not relate well to the character of the street scene or to the surrounding pattern of development. It would harm the open and green appearance of this part of the site and the contribution it makes to the visual amenity of the locality. It would result in a hard and tall boundary directly abutting the public footway. An objector said the strip along the existing garden wall had been planted as part of the landscaping scheme for the housing development. It had since been removed, replaced with bark chip.
7. I agree that strips and small plots of planted land within this part of the Milton Keynes residential area have considerable value in softening the urban feel of the fairly densely built housing layouts, adding to the pleasures of living and moving within the area. It may be that some of this beneficial communal facility is provided by private land by, for example, requiring low front boundaries to maintain an open character. But here the high wall along the rear garden of No. 17 reduces its private amenity space. The criticism of a small reduction of the public benefit conferred by this narrow strip of privately owned land would, in my view, be acceptably offset by its incorporation into No. 17's garden.
8. In noting the concern that the footway would be, perhaps uncomfortably, bounded closely by the repositioned wall, I looked at examples of short lengths of high walls directly alongside footways such as in Collingwood Gardens close to its junction with Fen Street and with Broughton Grounds. Any visual or sensational detrimental effects appeared minimal. I find no material conflict with local policy drawn up to safeguard public amenity and protect the character of the immediate locality. The appeal is allowed, subject to the standard time limit condition and a condition as to the plans to define the project.

Conclusion

9. For the reasons outlined above, the appeal is allowed. Conditional planning permission is granted.

John Whalley

INSPECTOR