



Appeal Decision

Site visit made on 18 December 2023

by Chris Couper BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd January 2024

Appeal Ref: APP/P1940/D/23/3330279

17 South Cottage Drive, Chorleywood, Hertfordshire WD3 5EB

- 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 Mark Brayne against the decision of Three Rivers District Council.
 - The application Ref 23/0670/FUL, dated 24 April 2023, was refused by notice dated 17 July 2023.
 - The development proposed is described on the application form thus: 'we are looking to move our rear garden boundary fence out further onto the land we own in our deeds to enable us to enjoy sunshine into a section of our rear garden as we have protected trees in the rest of the garden that restrict this'.
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Decision

1. The appeal is dismissed.

Procedural Matter and Background

2. I have taken the description of the proposal in my banner above from the application form. However, I note from the evidence before me, including the appellant's statement, that the proposal is for the change of use of part of the private amenity land to the side of the dwelling to residential garden, with associated alterations to ground levels and fencing.
3. The Council previously issued an enforcement notice alleging the material change of use of the amenity land to its use for residential purposes. That related to a larger area of land than in this scheme. A subsequent appeal made under section 174 of the Act was dismissed and the enforcement notice was upheld (Ref: APP/P1940/C/3248078) ('previous appeal'). I have had regard to the previous appeal in my decision.

Main Issue

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

Reasons

Character and appearance

5. The houses on South Cottage Drive and South Cottage Gardens are generally detached and set well back from the highway on large plots, typically with unenclosed frontages. This, together with the highway verges and parcels of

- amenity land which are an integral part of the estate's open plan design, contribute to the area's locally distinctive open and spacious character.
6. The property at 17 South Cottage Drive is prominently positioned on a corner at the junction with South Cottage Gardens. It comprises the house and garage, a parking forecourt, a rear garden bounded by a fence, and an open amenity area between that fence and the pavement. The latter forms part of a larger area of grass that extends to the north adjacent to 14 South Cottage Gardens ('No 14'). Given its characteristics and open appearance, I agree with the Inspector in the previous appeal that it makes an important contribution to the openness and spaciousness of the area.
 7. In this proposal, the new fence would adjoin the existing fence at the corner of No 14's rear garden and would extend to a point around 3.17 metres from the rear corner of the host's garage, from where it would taper in to a point about 1.5 metres from the garage's front corner. The roughly wedge-shaped area of land that would be enclosed by a fence to provide additional garden would be much smaller than in the previous appeal, and a larger area of unenclosed amenity land would thus be retained.
 8. However, whilst the extent of the retained amenity land would be larger than elsewhere on the estate, such as at 2, 8 and 14 South Cottage Gardens, the scheme would nevertheless diminish the locally distinctive sense of openness on this prominent corner site. Whilst the area enclosed would be relatively small, I also share the concerns expressed by many local residents that allowing this appeal could encourage similar applications elsewhere on the estate, which would gradually erode its open character.
 9. Additionally, although the new fence line would broadly reflect the alignment of the nearby verge and pavement, the scheme would result in a somewhat awkward and incongruous intrusion into this open amenity land, which would be particularly apparent in streetscene views from around the junction of these two roads.
 10. I do not have all the details of the retrospective application that was made to enclose the nearby verge at 22 South Cottage Drive and to use it as 'residential curtilage' (Ref: 12/2250/RSP), nor an officer report to explain why it was granted. However, I observed that the position of that fence is not typical of the area and, along with the cited example at 55 South Cottage Gardens, it is closer to the edge of the estate in an area where the character starts to change and becomes less open due to the presence of large trees and other vegetation close to the road.
 11. For the above reasons, the scheme would harm the character and appearance of the area. It would thus conflict with Policies CP1 and CP12 of the Three Rivers Core Strategy 2011, and with Policy DM1 and Appendix 2 of the Three Rivers Development Management Policies Local Development Document 2013 ('TRDMP').
 12. Amongst other things, and in general terms, these set out the need to protect the environment from inappropriate development, having regard to the local context, and that proposals shall conserve or enhance the character and quality of an area and not lead to a gradual deterioration of the built environment including its visual amenity space.

13. It would also conflict with Policy 2 of the Chorleywood Neighbourhood Plan 2020 which sets out that development should seek to make a positive contribution to the streetscene and maintain local distinctiveness.

Other matters

14. The appellant states that the useable garden area currently falls well short of the indicative amount recommended in TRDMP Appendix 2. In its favour, the scheme would provide slightly more garden land for the occupiers, in a location further from the protected pine trees, and which would have unobstructed sunlight from the south. However, from the evidence before me, the existing patio to the rear of the flat roofed garage benefits from some direct sunlight, and I have no substantive evidence that the trees pose a significant safety hazard.

Conclusion

15. I have found that the scheme would harm the character and appearance of the area. The private benefit to the appellant and his family's living conditions would not outweigh the harm that the scheme would cause, and the undesirable precedent that allowing it in this area of the estate could set. The scheme would conflict with the development plan when considered as a whole and, having regard to all other matters raised, including representations by interested parties, the appeal is therefore dismissed.

Chris Couper

INSPECTOR