



Appeal Decision

Site visit made on 20 February 2024

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st March 2024

Appeal Ref: APP/V2635/W/23/3325416

20 Woodside, Swallowfield Road, King's Lynn, Norfolk PE30 4SD

- 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 Darren Liddy against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 23/00470/CU, dated 4 March 2023, was refused by notice dated 8 June 2023.
 - The development proposed is described as 'alter open space to garden space'.
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Decision

1. The appeal is allowed and planning permission is granted to alter open space to garden space at 20 Woodside, Swallowfield Road, King's Lynn, Norfolk PE30 4SD in accordance with the terms of the application, Ref 23/00470/CU, dated 4 March 2023, subject to the following conditions:
 - (1) The development hereby permitted has been determined in accordance with the following approved plan: Ordnance Survey Location Plan (scale 1:1250).
 - (2) The 6ft feather edge wooden fence which has been erected to the external edge of the land edged red on the approved plan shall be maintained in a brown wood preservative finish at all times.

Preliminary Matters

2. Following submission of the appeal, the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. The parts of the Framework most relevant to the appeal have not substantively changed from the previous version. Consequently, this update to national policy does not fundamentally alter the main parties' cases or prejudice their position at appeal, and it is not necessary to seek further comments.
3. The change of use from open space to garden space has already been carried out. Therefore, I have considered the appeal on the basis that planning permission is being sought retrospectively.
4. A fence has been erected and this encloses the space subject of this appeal. It is clear from the application form that a '6ft feather edge wooden fence painted in brown wood preservative' forms part of the proposal. The main parties respective cases also consider this aspect of the scheme. Therefore, I have taken the fence into consideration as part of my assessment.

Main Issue

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

Reasons

6. The appeal dwelling is situated within a residential estate mainly consisting of two-storey, semi-detached and terraced dwellings. There is a prevalence of grass verge along the roadside and in the vicinity of the appeal site these are also supplemented by open grassed areas alongside Plantation Way. This includes a large public open space on the opposite side of Swallowfield Road. The grass verges and open spaces in the area contribute to the estate's overriding spacious character.
7. The proposed change of use of land has resulted in the curtilage at No 20 Woodside extending to the boundary with Swallowfield Road. Even so, on my site visit, I observed that while curtilages are more often set away from the footway on Swallowfield Road, there are some instances where properties extend close to the highway boundary, including nearby to the appeal site.
8. While the development has marginally reduced the extent of grass verge on Swallowfield Road, the other grass verges in the immediate area, together with the open grassed areas alongside Plantation Way retain an overriding spaciousness. Furthermore, the fence that has been erected in association with the development has a similar appearance and presence in the street to the fence at the neighbouring property at No 25 Woodside. Consequently, the development has had a negligible effect on the spacious qualities of the estate and sits comfortably in the context of its immediate surroundings.
9. The Council has raised concerns about a potential piece-meal effect if other open spaces were to be enclosed and changed to garden land. However, I have assessed the appeal on its own merits based on the existing situation and find that the effect of the development is acceptable in this particular instance.
10. I conclude that the development has an acceptable effect on the character and appearance of the area. In that regard it complies with the design, context, local distinctiveness and character requirements of Policy CS08 (Sustainable Development) of the King's Lynn and West Norfolk Borough Council Core Strategy (2011) and Policies DM15 (Environment, Design and Amenity) and DM22 (Protection of Local Open Space) of the King's Lynn and West Norfolk Borough Council Site Allocations and Development Management Policies Plan (2016).

Other Matters

11. The Council has referred to its Green Infrastructure Study (2010). Even if this supports the protection and enhancement of open spaces, there is nothing before me to suggest the development in this case would have a tangible effect on the provision of open space in the area. Moreover, the policies of the development plan before me do not prohibit the change of use of grass verges. Issues relating to land ownership are not within my jurisdiction and are a separate matter to planning permission.

12. With regards to potential issues arising as a result of vehicles parking on the pavement alongside the fence on the appeal site; any obstruction of the public footway would be a matter for the highway authority.

Conditions

13. As the development has already taken place, a condition setting out timescales for implementation is not required. A condition confirming the approved drawing is necessary in the interests of accuracy and certainty. I have also included a condition requiring that the fence erected in association with the change of use is maintained in a brown wood preservative finish in order that it retains a similar appearance to other fencing in the area.

Conclusion

14. For the reasons set out, the appeal is allowed.

M Russell

INSPECTOR