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## Appeal Decision

Site visit made on 25 April 2024

**by G Roberts BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13<sup>th</sup> May 2024**

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**Appeal Ref: APP/B1605/D/24/3338626**

**44 Springfield Close, The Reddings, Cheltenham, GL51 6SF**

- 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 Mrs Gina Newman against the decision of Cheltenham Borough Council.
  - The application Ref. 23/01566/FUL, dated 10 September 2023, was refused by notice dated 22 November 2023.
  - The development is in retrospect. A front fence, all around the front garden. Professionally fitted. Wooden. 1 metre tall with open slats. Cemented posts. Reflectors on posts. Willing to change fence colour if needed. But now take down front of the fence to hopefully be more favourable with the planning officer as no other gardens are completely enclosed by fencing. Some neighbours have added shrubs/hedging and plants. With this in mind I hope to maintain the open plan street scene of the cul de sac and its general amenity. Compliment and respect wider locality. With shrubs cause no harm to the architectural integrity of the general design of the area.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. I have adopted the description of development as set out in the Application Form as this describes more fully the revisions proposed by the Appellant to the new fence, which has already erected on the appeal site. A previous application for the new fence (ref. 23/01086/FUL) was withdrawn to allow for a resubmission showing an amendment to the fence as erected on site. That amendment involves the removal of the road fronting section of the fence and its replacement with planting. I have determined the appeal on that basis.
3. Since planning permission was refused a revised version of the National Planning Policy Framework (Framework) was published in December 2023. However, the relevant design policies of the Framework remain unchanged, albeit some of the paragraph numbering is different.

### Main Issue

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

### Reasons

5. The appeal site comprises a two storey end of terrace property which is located at the end of a cul-de-sac. The host property is set back from the road with a

large front garden, and as shown on the submitted plans a good sized garden at the rear. Similar properties with similar front and rear garden layouts are located to the north, south and east of the appeal site. The front garden to the host property is laid to lawn with a single tree and a shared pedestrian access to its front door. The shared access leads to the front doors of the three other properties that form part of the same terrace and whose front gardens are also largely laid to lawn.

6. As I confirmed earlier, the proposed fence has already been erected on the appeal site and encloses the whole of the front garden (lawn) area. Planning permission is, therefore, sought retrospectively to retain most of the existing fence other than that fronting the road, which is shown on the submitted plans as being replaced by low level planting.
7. The appeal site and cul-de-sac form part of an estate that I understand was permitted in 1982. The estate was designed with open frontages and with no physical boundaries to the front gardens. I understand that to maintain this open character permitted development rights were removed. Whilst I accept that a number of frontages are used for off-street parking and parking of boats and caravans, as I observed on site the open plan layout of the estate largely remains and is a particular characteristic of the area.
8. The new fencing, even with the front element replaced by planting, will still enclose the front garden to the host property. Even though the fence itself is only 1 metre high, I agree with the Council that it is of a poor standard of design, which has a harsh visual impact on the character of the cul-de-sac. It is visually prominent given that there is no similar fencing on adjoining or nearby properties. As such, the new fence appears out of character and a harmful addition to the streetscene. The poor design of the fencing would not be mitigated by the Appellants offer to paint it a different colour or by the introduction of the new planting on the road frontage. Even with the latter the majority of the fence with its inappropriate design and appearance will remain.
9. Where an estate comprises a broadly consistent style of houses and layout, as in this case, the original or a similar design of boundary treatment should, in my view, be maintained so as to preserve the character of the area. In this instance, the new fence results in a marked change in the appearance of the appeal site and this part of the estate. It has eroded its open character and the contribution the host garden makes, with the front gardens of adjoining properties, to the openness and spaciousness of the streetscene.
10. The photographs that accompanied the Appellants Grounds of Appeal (GOA) show other timber fencing and boundary treatments in the area. However, whilst I viewed these examples on site they are not directly comparable to the appeal proposal in that they include either side boundary fencing and/or hedging that does not fully enclose the front gardens in question and are not of the same extent and design. Even so, I have not been provided with any planning background to these examples or any evidence of whether, in the case of the examples of fencing, they benefit from planning permission or are historic and thus lawful.
11. Furthermore, the existence of these boundary treatments does not provide any justification for the appeal proposal and I do not regard some of them as good examples to follow. I do, however, agree with the Appellant that the Council's contention that the new fence would set a precedent should not be accorded

much weight. Each application should be considered on its individual merits having regard to the policies of the development plan that exist at the time and local circumstances. In relation to other works permitted on the estate, such as porches and rear extensions, again, they are not directly comparable. There is also no evidence before me to suggest that these alterations and extensions have compromised or harmed the open plan nature of the estate.

12. Turning to policy D1 of the Cheltenham Plan (July 2020) (CP) this seeks, amongst other matters, to ensure that new development complements and respects neighbouring development and the character of the locality, and avoids alterations that would harm a group of buildings or the erosion of open space. Policy SD4 of the Gloucester, Cheltenham & Tewkesbury Joint Core Strategy (December 2017) (JCS) also requires new development to respond positively to and respect the character of a site and its surroundings, enhancing local distinctiveness and the existing pattern/grain of development. These policies remain broadly consistent with those in paragraph 135 of the Framework. As a consequence and for the reasons set out above, I find that the proposal conflicts with the aims and objectives of all of these policies.
13. The Appellant contends that as the development plan is being reviewed the policies of the JCS and CP are out of date. I do not agree. Both the CP and JCS remain part of the adopted development plan and planning law requires applications for planning permission to be determined in accordance with that plan unless material considerations indicate otherwise.
14. In relation to other material considerations, I have had regard to the Appellant's concerns over the safety and security of the front garden and that it is publicly accessible. However, the latter is a common feature of open plan estate layouts and a potential solution may be to introduce a less harsh and more softer boundary treatment in the form of planting/hedging. My attention has also been drawn to the fact that the Appellant is a carer for her husband and that the enclosure of the front garden assists with his care and well-being. Whilst I sympathise with the Appellant's personal circumstances, these are not, in my judgement, sufficient to outweigh the harm I have identified. I have also had regard to the considerations in the Equalities Act 2010, but again, based on the limited evidence before me of the husband's precise needs and requirements, they are also not sufficient to outweigh the harm that I have identified.
15. Accordingly, I find that the proposal, even as amended, results in harm to the character and appearance of the area contrary to policy D1 of the CP, policy SD4 of the JCS and paragraph 135 of the Framework.

## **Conclusions**

16. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*G Roberts*

INSPECTOR