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# Appeal Decision

Site visit made on 11 June 2024

**by R Kent BA (Hons) MTP DipM MRTPI**

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

**Decision date: 22 July 2024**

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**Appeal Ref: APP/U3935/W/23/3334018**

**1 Colchester Close, Toothill, Swindon SN5 8AG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr J Maynard against the decision of Swindon Borough Council.
  - The application Ref is S/23/1109/NICL.
  - The development proposed is change of use of public open space to domestic garden and parking.
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## Decision

1. The appeal is allowed and planning permission is granted for change of use of public open space to domestic garden and parking at 1 Colchester Close, Toothill, Swindon SN5 8AG in accordance with the terms of the application, Ref S/23/1109/NICL, subject to the following conditions.
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the Location Plan 1:500 and Site Plan 23/01/01 rev B except in respect of the new boundary fence between points A-B-C and D shown on plan 23/01/01 rev B.
  - 3) Prior to the erection of any means of enclosure details of its position, height, design, materials and type shall be submitted to and approved in writing by the local planning authority. The means of enclosure shall be completed as in accordance with the approved details. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no means of enclosure, other than those specifically permitted under this condition, shall be erected or placed on, or along the boundaries of the site.
  - 4) Prior to the change of use hereby permitted being implemented a plan of the proposed parking and its surfacing showing surface water drainage in accordance with sustainable drainage principles shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved plan.

## Preliminary Matters

2. The Council officer's report indicates that the residential use appears to have spread outside the property boundary. An "area of encroachment" is depicted on site plan 23/01/01 rev B showing a narrow strip parallel to the end elevation of the house. This area is within the appeal site and I have determined the

appeal accordingly. Although the site plan is annotated to show a “new boundary fence close board as per existing between points A-B-C and D,” the description of the development does not include a boundary fence. I have determined the appeal on that basis and shall return to the matter of boundary treatments later in my decision.

### **Main Issue**

3. The main issue is the effect of the proposal on the character and appearance of the site and its surroundings.

### **Reasons**

4. The area around the appeal site is characterised by a mixed pattern of development, including the Village Centre. To the north of the site, some buildings are separated from the road by open space whilst others are enclosed by trees and hedges or have front gardens and drives between them and the road. Colchester Close is a cul-de-sac serving a number of semi-detached houses, each with a predominantly open frontage to the road. To the rear of No 1 is a group of trees separating it from an open space which is fronted by a terrace of houses with front gardens enclosed by a mix of low fences. The trees filter views of the site from the northern direction.
5. Beyond the site to the south, there is a more consistent character and appearance to the road. The houses on the eastern side of Dunwich Drive are set back with parking spaces and open front gardens separating them from the road. The building line is staggered with the houses nearest the junction with Colchester Drive set further back than those beyond them. On the opposite side of Dunwich Drive are groups of terraced properties, some of which have side elevations onto the road in a similar manner to No 1. As with No 1, they are set back behind grassed areas. Diagonally opposite the junction with Colchester Close, the terrace faces on to the road with open front gardens and parking areas between them and the road. Overall, this part of the road has a more open character with green areas and occasional trees giving it a spacious appearance.
6. The change of use would retain a section of green space between the extended garden of No 1 and Dunwich Drive. In conjunction with the width of the road, the trees and other areas of open space in the vicinity, this would retain the spacious, landscaped appearance of this part of the road. Given the mixed nature of frontages around the site, the extension of the residential curtilage would not cause harm to the character or appearance of its surroundings. When viewed from the southern direction, it would be seen against the group of trees and houses to the rear of No 1. From the northern direction, it would be seen against the backdrop of the staggered building line of the houses beyond. As a result, it would not cause an unacceptable visual encroachment into the street scene of Dunwich Drive.
7. The Council has expressed concern about the quality of the proposed boundary treatment. I note that the appellant has agreed to consider alternative options and am therefore satisfied that the form, position and style of enclosure could be resolved through a planning condition. This would allow the Council to ensure that it would be appropriate to its local context and not cause a highway safety issue by obstructing visibility for drivers exiting Colchester Close.

8. For these reasons I conclude that the proposal would comply with the requirements of Swindon Borough Local Plan 2026 policies DE1 and SD1 which seek to promote high quality design and place making principles.

### **Other Matters**

9. The plans do not provide details of the proposed parking provision. However, existing properties in Colchester Close and Dunwich Drive have parking areas along their frontage. A further parking area within the site would not harm the character or appearance of the site or its surroundings.

### **Conditions**

10. In addition to the standard time condition, for clarity and certainty, a condition is necessary to secure development in accordance with the approved plans. As the means of enclosure is referred to in the evidence but does not form part of the application, a condition requiring details of it to be submitted is reasonable. This would allow the parties to agree the exact details of the means of enclosure prior to it being erected, in the interests of the character and appearance of the area. I have modified the Council's suggested condition to add a clause stipulating that no other forms of boundary treatment, other than those approved under the condition, shall be erected or placed on the site or along its boundaries.
11. A condition to secure details of the parking and surface water drainage arrangements is also reasonable in the absence of them being submitted with the appeal proposals. I have split the Council's suggested condition into two separate conditions so it is more precise.

### **Conclusion**

12. For the reasons given above the appeal should be allowed.

*R Kent*

INSPECTOR