

Appeal Decision

Site visit made on 27 August 2024

by H Marriott MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2024

Appeal Ref: APP/L2440/W/24/3340911

29 Pipistrelle Way, Oadby, Leicester, Leicestershire LE2 4QA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Santokh Gangar against Oadby and Wigston Borough Council.
 - The application Ref is 23/00409/FUL.
 - The development proposed is for a 2 storey side extension and porch plus relocate boundary fence.
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Decision

1. The appeal is allowed and planning permission is approved for a 2 storey side extension and porch plus relocate boundary fence at 29 Pipistrelle Way, Oadby, Leicester, Leicestershire LE2 4QA, in accordance with the terms of the application Ref 23/00409/FUL, 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 drawing nos 200608 A202 Rev D 'Location Plan' and 200608 P001 Rev G 'Existing and Proposed GAs'.
 - 3) The external materials of the extension hereby permitted shall match those used in the existing building/dwelling.
 - 4) The extension hereby permitted shall not be occupied until all the new windows at first floor level have been fitted with obscured glazing, and no part of those windows that are less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

Preliminary Matters

2. The appeal relates to a planning application that was not determined by the Council within the prescribed period. The Council has confirmed that it would have refused planning permission had it have made a decision on the

proposal. Whilst the Council's submissions raise no objection to the proposed 2 storey side extension and porch, their concern relates to the proposed relocation of the boundary fence and the effect of the character and appearance of the area. I have defined the main issue on this basis.

3. Planning permission for the erection of a two storey and single storey side extension and new front porch (Council ref: 20/00311/FUL) and the erection of a two-storey side extension and porch (Council ref: 22/00281/FUL) have been approved by the Council in the past. I saw on site that a porch has been constructed on site. I cannot be certain whether the porch has been constructed in accordance with either these permissions or the plans submitted pursuant to this appeal. The parties have not specified that the appeal proposal is retrospective. On this basis, I have proceeded to determine the appeal on the basis of the development proposed and applied for.
4. The Council submitted extracts from the Oadby and Wigston Local Plan Adopted Supplementary Planning Guidance (2001). However, on seeking clarification, the Council confirmed that this document has been superseded and the relevant extracts from the Residential Development Supplementary Planning Document Adopted Document (2019) (SPD) were subsequently submitted. The appellant was given opportunity to make comments on the SPD.

Main Issue

5. The main issue is the effect of the proposed boundary fence on the character and appearance of the area.

Reasons

6. The local area is characterised by 21st century residential development containing a mixture of house types. Dwellings tend to front the street with gardens to the rear although some corner plots sit side onto the road with gardens to their side, including the appeal site at 29 Pipistrelle Way (No 29). Apart from low hedgerows around some of the gardens, the front gardens are open and consist of driveways and/or soft landscaping. Short sections of close boarded fencing and brick walls are also visible and tend to define rear garden areas, with railings also present in the area. Despite this variety, the street scene has a cohesive appearance informed by these shared characteristics.
7. The main private garden area serving No 29 is defined by a close boarded fence which is partly positioned above a brick retaining wall along one side of a shared driveway. A narrow strip of soil containing low height shrubs with gaps in between is currently located between the fence and the driveway and provides a minimal soft landscaped buffer between the street and the fence and I am not aware of any requirement of this strip of land to be more extensively planted and maintained to provide a more effective soft landscaped buffer. The existing fence is therefore fully visible from the driveway.
8. It is not clear whether or not the guidance in the SPD only relates to the enclosure of front gardens as opposed to the rear / side garden of the appeal site. Even so, the requirement to provide security while retaining the quality

of the street scene could equally apply to other fencing in other positions. It advises that that fences abutting the highway exceeding 1 metre high should be set back from the boundary with a landscape screen or hedge grown in front of it. The height and appearance of the proposed fence closer to the edge of the driveway would be similar to the existing fence and other garden fencing in the area, including similar fencing on a shared driveway adjacent to No 11 Pipistrelle Way. The proposed fence is not highly visible in the street scene due to its position along the shared driveway, set away from the main part of Pipistrelle Way. The low hedges located around the front garden areas of No 29 and to the front and side of 27 Pipistrelle Way (No 27) would not be altered as a direct result of the proposal and would continue to soften the hard landscaping and built form visible on entry to and from within the driveway.

9. Therefore, even though the proposal would not strictly accord with the guidance in the SPD requiring fencing to be set back where it abuts a highway in some circumstances, given the site-specific relationships described, I am satisfied that the relocated fence would not be a visually intrusive or dominant feature.
10. I conclude that the proposed relocated fence would have an acceptable effect on the character and appearance of the area. In this regard, the proposal would comply with Policy 6 of The Borough of Oadby and Wigston Local Plan 2011 – 2031 (2019) which requires new development to create a distinctive environment by respecting existing local character. There would also be no conflict with the relevant part of the National Planning Policy Framework that requires development to be well designed.

Other Matters

11. The Council suggests that the proposed fence may increase the likelihood of pedestrian and vehicular accidents although it is clear from the draft reason for refusal that this would not have formed a reason for refusing the proposed development. Notwithstanding my view in relation to the requirement to plant and maintain a more effective soft landscaped buffer in front of the existing fence, I am equally unaware of any requirement to restrict any such planting to a particular height or depth. The proposed fence would likely have no differing impact upon visibly compared to landscape buffer that could be planted on this land.

Conditions

12. The Council has suggested various conditions in the event that the appeal is allowed. Conditions specifying the timescales for implementation of the development, and requiring the development be carried out in accordance with the approved plans, are necessary in the interests of planning certainty. In the interests of the character and appearance of the area, a condition specifying that the exterior materials to be used shall match the existing dwelling is also necessary. A condition to ensure that the first-floor dressing room windows and ensuite window in the proposed extension are obscure glazed and non-opening below 1.7 metres above floor level is necessary in the interests of retaining privacy for occupiers of neighbouring dwellings, particularly No 27 and 31 Pipistrelle Way.

Conclusion

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

H Marriott

INSPECTOR