



Appeal Decision

Site visit made on 18 September 2024

by E Pickernell BSc MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2024

Appeal Ref: APP/U3935/W/24/3337417

55 Courtenay Road , Walcot, Swindon SN3 3DG

- 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 Ndiouga Diop against Swindon Borough Council.
 - The application Ref is S/23/1085/JP.
 - The development proposed is described as "We want to change from use of open public space to domestic parking/garden. As we are a corner house we have on the side 165 square meters of public space that we are in the process of purchasing and we need permission to change it from open public use to domestic parking/garden."
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Decision

1. The appeal is dismissed and planning permission for change from use of open public space to domestic parking/garden is refused.

Preliminary Matters

2. I have used the description of development provided on the application form in the banner heading above however in the interests of clarity I have used a shortened version, omitting elements which are not acts of development, in my formal decision above.
3. The appeal relates to a planning application that was not determined by the Council within the prescribed period. I note that the Council would have refused planning permission should it have made a decision on the proposal. I have had regard to the parties' submissions in establishing the main issue which I have set out below.

Background and Main Issue

4. The Council failed to determine the application within the prescribed period, however the Council has indicated in its statement that it would have refused planning permission, had it retained the jurisdiction to do so. Based on the evidence before me the main issue is:
 - The effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal site comprises an open area of land adjacent to an existing end of terrace property (No.55) located within an area which is characterised primarily by a mix of terraced and semi-detached dwellings. The layout of the

area is characterised by pairs or small groups of houses facing the road which gives a degree of consistency.

6. Most of the corner sites I observed during my site visit were relatively open owing to side or front gardens set back from the pavement creating spaces which are typically laid to grass, and some are also planted with trees. These open corners along with their soft landscaping are attractive features which make a significant positive contribution to the character of the area, even if they are not commonly used for play or recreation.
7. The appeal site is laid to grass, other than a path which leads from the pavement to No.55. The area has been used for informal parking, however it essentially comprises an open corner which provides a sense of spaciousness to the area, adding significantly to its character and appearance.
8. The proposal would result in the use of the appeal site as garden and parking associated with No.55. This would involve the provision of fencing and the formation of a driveway. The area would also be likely to attract domestic paraphernalia such as play equipment and garden furniture associated with its proposed garden use. Consequently, the openness of the site would be eroded which would diminish the spacious nature of the area surrounding the appeal site.
9. Although the appellant has been maintaining the site and the proposal would allow them to raise the path to avoid it flooding and to gain more parking and garden area, these factors do not provide sufficient justification for allowing the harm I have identified to occur.
10. For the reasons given, the proposal would have a harmful effect on the character and appearance of the area. It would therefore conflict with Policies DE1 and EN3 of the Swindon Borough Local Plan 2026 (Adopted March 2015) which seek to ensure that development addresses existing context and character, the quality of the public realm and protects public open space. It would also conflict with the National Planning Policy Framework (the Framework) insofar as it seeks to achieve well-designed and beautiful places.

Other Matters

11. Whilst I acknowledge the appellants frustrations with the process associated with purchasing the land, this is outside the scope of this appeal.

Conclusion

12. I conclude that the proposal conflicts with the development plan when read as a whole and the material considerations, including the Framework do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed, and planning permission is refused.

E Pickernell

INSPECTOR