



Appeal Decision

Site visit made on 20 August 2019

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10TH October 2019.

Appeal Ref: APP/D3125/W/19/3229888 106 Ralegh Crescent, Witney OX28 5FY

- 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 J Martin against the decision of West Oxfordshire District Council.
 - The application Ref 18/03550/FUL, dated 5 December 2018, was refused by notice dated 13 March 2019.
 - The development proposed is the change of use of land to domestic garden and erection of close boarded fence (retrospective).
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The close boarded fence enclosing the garden has already been erected. The appellant is therefore seeking the retention of what has been built. As for the change of use of the land now enclosed, I noted from my site visit, that this area consisted of soil with no evidence of planting or garden paraphernalia. Nevertheless, it has now become part of the private space relating to the appeal property and I consider that the change of use has taken effect. I therefore consider that the use of the land is also seeking retention and have determined the appeal on this basis.

Main Issue

3. The effect of the development upon the character and appearance of the area.

Reasons

4. The appeal property is a detached dwelling located on a modern residential estate. A striking feature of the estate is the landscaping of intervening space between the dwellings and the public highway, which includes mature trees and shrubs of various species, colour and scale. The cumulative effect of the landscaping gives the estate a strong sense of place and contributes positively to the prevailing character and appearance of the area. Where hard boundary features do exist, these are primarily walls built in local stone or brick set back from the highway and softened by trees and shrubs planted on the intervening land.

5. Occupying a corner plot the appeal dwelling has a prominent appearance in the street with a frontage facing Raleigh Crescent and the whole of its side boundary facing Sherbourne Road. It is the side boundary that is enclosed by the appeal fence, a wooden structure in excess of 25m in length and approximately 1.8m in height which extends right up to the back of the pavement. The fence encloses space that was previously open and landscaped with trees and shrubs. The area now enclosed intends to form part of the appellant's private garden area.
6. With the interface between public and private land predominantly having a verdant appearance, the appeal fence has an abrupt presence abutting the pavement. In doing so, it appears as an unacceptably blunt and incongruous feature in the street that is out of kilter with the prevailing pattern of landscaping and boundary treatment in the area.
7. The appellant considers that the new fence has improved the visual amenity of the area, whilst further planting of climbing species and painting or staining it in a colour to match surrounding materials, would soften its appearance and ensure it blends into the area. However, the visual appearance of the fence and modest improvements proposed would not overcome the loss of a larger area of landscaping at a prominent location that made a valuable contribution to the public realm. The fact that the trees had become overgrown is not a reasonable justification to remove them, as general maintenance would control overgrowing.
8. It is also stated that the amenity land now enclosed by the fence, served no useful purpose. However, its contribution had allowed for the assemblage of trees and shrubs that formed an important part of the estate's inherent design and layout, and I consider that the appeal fence and enclosed land has a harmful effect on the character and appearance of the area.
9. The appeal scheme would thereby run contrary to the objectives of Policy OS2, OS4 and EH4 of the West Oxfordshire Local Plan 2031, Adopted September 2018. In particular, the development has involved the loss of features that made an important contribution to the character and appearance of the area, represents the loss of green infrastructure and fails to demonstrate high quality design. The proposal would also be contrary to National Planning Policy Framework (the Framework) which requires development proposals to be sympathetic to local character, including the surrounding built environment.

Other Matters

10. No 6 and 18 Sherbourne Road have been referred to as examples of where new side fences have been erected and where trees and shrubs were removed from the amenity land between the dwelling and the highway. However, unlike the appeal property, I have not had the benefit of what the amenity land looked like before the removal of the landscaping and without full background details, I am therefore unable to attach significant weight to these examples. In any event, each proposal should be considered on its own merits, as I have done in this instance.
11. Furthermore, I am not convinced that the fence and removal of the landscaping would reduce the potential risk of crime, as there may be alternative security measures that would not cause harm to the character and appearance of the area. The desire for increased security is therefore not a justification for

permitting something I have found to be harmful. In respect of the appellant having to remove the trees on the amenity land to improve living conditions, it is considered that the general maintenance of tree growth could have overcome this, rather than their complete removal. Equally, this applies to the appellant's concern that the trees had become onerous and impractical to maintain.

12. These other matters do not, therefore, lead me to a different decision.

Conclusion

13. For the reasons given, I conclude that the appeal should be dismissed.

R. E. Jones

INSPECTOR