
Appeal Decisions

Site visit made on 15 November 2016

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29th November 2016

Appeal A Ref: APP/C4235/W/16/3154420 60 Marple Road, Offerton, Stockport SK2 5QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr and Mrs D Welsh against the decision of Stockport Metropolitan Borough Council.
 - The application Ref: DC061895, dated 6 May 2016, was approved on 27 June 2016 and planning permission was granted subject to conditions.
 - The development permitted is a front boundary fence.
 - The condition in dispute is No 2 which states that: Within 4 weeks of the date of this approval, the fence panel adjacent to the sites access shall be repositioned so it is splayed back from the highway, as indicated on the 'fence layout plan proposed' illustration on Drawing 001/Rev E. The fence shall then be retained in this way at all times thereafter and no structure or object exceeding 600mm in height shall be erected/placed and no plant or tree shall be allowed to grow to a height exceeding 600mm within the area in front of the fence (between the fence and the highway) at any time.
 - The reason given for the condition is: In order that the site will benefit from safe and practical access arrangements in accordance with Policies SIE-1 'Quality Places', CS9 'Transport and Development' and T-3 'Safety and Capacity on the Highway Network' of the Stockport Core Strategy DPD. .
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Appeal B Ref: APP/C4235/W/16/3154417 60 Marple Road, Offerton, Stockport SK2 5QH

- 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 Mr and Mrs D Welsh against the decision of Stockport Metropolitan Borough Council.
 - The application Ref: DC060002, dated 14 October 2015, was refused by notice dated 18 April 2016.
 - The development proposed is a front boundary fence.
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Decisions

1. Appeal A is allowed and planning permission is granted for a front boundary fence at 60 Marple Road, Offerton, Stockport SK2 5QH in accordance with the terms of the application, Ref: DC061895, dated 6 May 2016, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan and Plan No. 001/Revision E (Fence layout and plan).
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- 2) Within 12 weeks of the date of this decision, the fence panel adjacent to the site access shall be repositioned so it is splayed back from the highway, as indicated on the 'fence layout plan proposed' illustration on Drawing 001/Rev E. The fence shall then be retained in this way at all times thereafter and no structure or object exceeding 600mm in height shall be erected/placed, and no plant or tree shall be allowed to grow to a height exceeding 600mm, within the area in front of the fence (between the fence and the highway) at any time.
2. Appeal B is dismissed.

Procedural matters

3. As set out above there are two appeals on this site. Whilst Appeal A is an appeal against a condition attached to a grant of planning permission which requires that a section of the fence be set back to provide visibility, were this condition to be removed, the resulting development would be identical to that proposed by Appeal B. The proposal which is the subject of Appeal B originally included the installation of gates, however, during the course of its consideration by the Council, the proposal was amended to remove the gates from the scheme. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. The fence has already been erected, and I was able to see this when I carried out my site visit. The planning application forms describe the development as "retention of existing fence". Section 73A of the Town and Country Planning Act 1990 (as amended) (the Act) makes allowance for the submission of a planning application for development which has been carried out before the date of the application. Section 55 of the Act describes development as the carrying out of building operations or the making of material changes of use, as opposed to their retention or continuation. I have therefore removed the words "retention of existing" from the descriptions of the development and have amended the descriptions slightly to make it clear that it is a front boundary fence.

Main Issue

5. The main issue in these appeals is the effect of the development on highway safety and whether it is necessary to include a visibility splay in the fence, having particular regard pedestrian safety.

Reasons

6. Marple Road is a busy, classified, road which carries a high volume of traffic. It is subject to a 30mph speed limit in the vicinity of the appeal site. At the time of my site visit, traffic was regular and free flowing and due to the width and geometry of the road, average vehicle speeds were high and likely to be close to the 30 mph limit. Whilst this is necessarily just a snapshot of the road conditions, due to the nature of the road, I consider that it is likely to be representative of conditions at other times. Immediately to the north west of the appeal site there is a pedestrian refuge in the carriageway which the Council state was installed as a result of the high volume of traffic and the amount of pedestrian activity in the vicinity of the site.

7. The front boundary fence is approximately 1.8 metres in height. There is some disagreement between the parties with regard to the height of the fence that was formerly present at the front of the property, with the Council suggesting 1.2 metres and the appellant suggesting 1.47 metres. From the evidence, it is not possible to ascertain the height of the previous fence, but from the photographs contained in the appellants' statement it is clear that this earlier fence obstructed the visibility from the driveway entrance for drivers to a degree.
8. Policy CS9 of the Stockport Core Strategy 2011 (Core Strategy) requires that new development considers the needs of the most vulnerable road users first, with pedestrians at the top of the hierarchy of road users. Core Strategy Policy T-3 requires developments to have a safe and well designed access and states that development which will have an adverse impact on the safety of the highway network will only be permitted if mitigation measures are provided to sufficiently address such issues.
9. Regardless of the actual height of the previous fence on the front boundary of the appeal site, the new fence is significantly taller from the perspective of both the driver of a vehicle egressing the site and pedestrians using the footway, who would previously have been able to see a vehicle over the top of the fence even if the driver could not necessarily see them. It will prevent drivers having any views of pedestrians until the windscreen of the vehicle is level with the fence, by which time the front of the vehicle will have emerged onto the footway and will also prevent pedestrians from seeing a vehicle emerging from the site in time to react to its presence.
10. I have had regard to the appellants' point that the width of the driveway access was widened when the fence was erected. This may have very slightly improved visibility for a driver leaving the site, although this will depend on the position adopted by the vehicle in relation to the driveway opening. However, it has little effect on the ability of a pedestrian approaching the entrance from the south east to see a vehicle starting to exit the site. Consequently, due to the height of the fence and the effect it has on intervisibility between pedestrians and the drivers of vehicles leaving the appeal site, it creates conditions which are prejudicial to the safety of pedestrians using the footway adjacent to Marple Road. This is contrary to the requirements of Core Strategy Policies CS9 and T-3.
11. I have noted the appellants' point that the splayed fence may impede manoeuvring of vehicles within the site to allow them to access the highway on forward gear. Whilst the visibility splay will bring the fence line into the site frontage, the house has a large frontage area that is laid with gravel in its entirety. Consequently, I do not consider that the small encroachment into this area to create the visibility splay would excessively constrain the ability to turn a vehicle within the site curtilage.
12. I saw on my site visit that the adjacent property has a hedgerow approximately 2 metres high on the site frontage and that a small number of other properties had either similar hedges or high fences forming the front boundary. The Council point out that the height of hedges cannot be controlled through the planning system and I have no evidence before me with regard to the circumstances which led to the other high fences being accepted. In any event, from what I saw on my site visit, and the similar effect that these fences

- have in restricting visibility at driveway entrances, they are not the type of development that should be used as a reason to allow similar works at number 60.
13. The appellants suggest that the fence was erected to increase privacy and security at the property. I note that the Council have not expressed concern with regard to the appearance of the fence, and the creation of the visibility splay would not reduce the level of privacy or security that the fence currently provides.
 14. I have also noted the appellants' point that the revised entrance and boundary arrangements were necessitated by the construction of a pedestrian refuge in the carriageway of Marple Road. I saw on my site visit that, due to the location of the refuge, widening of the access to the driveway would facilitate manoeuvres into and out of the access, although I am mindful of the Council's comments that the ability to access the driveway of the property was tested during the design of the scheme to provide the refuge. However, there is no evidence that would indicate why the siting of the refuge would necessitate increasing the height of the boundary fence over that which previously existed.
 15. The approved drawing for the proposal which is the subject of Appeal A (Plan No. 001/Revision E) shows the panel of the fence adjacent to the driveway opening splayed back 1 metre into the site. This arrangement would significantly improve visibility at the access, particularly in respect of pedestrians being able to see emerging vehicles in sufficient time to react.
 16. The condition in dispute in Appeal A requires that the visibility splay shown on Plan No. 001/Revision E be implemented, and I therefore conclude that the condition is necessary in the interests of highway safety, with particular regard to pedestrian safety and should therefore not be removed. In this respect the appeal fails.
 17. I have, however, had regard to the appellant's point that a period of four weeks allows very little time to organise and implement the works. I would agree that whilst the works are not major, as it may not be possible to organise a contractor on short notice, a longer period should be allowed for implementation the works. Rather than dismiss the appeal, I have deleted the original condition and imposed a replacement allowing a longer time period.
 18. Appeal B seeks permission for the fence without a visibility splay. As I have found in respect of Appeal A that, without the visibility splay, the fence causes harm to highway safety, Appeal B must necessarily fail for the same reason. It is contrary to the relevant requirements of Core Strategy Policies CS9 and T-3 which seek to protect the most vulnerable road users and to mitigate any harm to highway safety resulting from new developments.

Other matters

19. The appellants state that they intend to pursue the installation of gates at the premises under the terms of the Town and Country Planning General Permitted Development Order 2015. Whilst I note the Council's concerns in respect of vehicles waiting to enter the site, neither of the proposals before me include the installation of gates. Within the context of these appeals, it is not for me to make a finding on the implications of the exercise of national permitted development rights.

Conclusions

20. I have found that, in its current configuration, the fence causes harm to highway and pedestrian safety and, for the reasons set out above, I conclude that Appeal B should be dismissed.
21. I have found that Condition 2 attached to Planning Permission Reference DC061895 is necessary in the interests of highway and pedestrian safety. However, as there are no other objections to the fence, subject to the implementation of the visibility splay required by condition 2, I therefore allow the appeal but only to the limited extent of allowing a longer time period for provision of the visibility splay.

John Dowsett

INSPECTOR