The Planning Inspectorate

Appeal Decision

Site visit made on 28 November 2016

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 12 December 2016

Appeal Ref: APP/N4720/C/16/3152559
22 Chestnut Grove, Woodlesford, Leeds LS26 8WU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Updesh Dosanjh against an enforcement notice issued by Leeds City Council.
- The enforcement notice was issued on 18 May 2016.
- The breach of planning control as alleged in the notice is: the erection of a timber and concrete panel fence with concrete posts that exceeds one metre in height, located adjacent to a highway used by vehicular traffic which exceeds the height permitted under Class A, part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development (England) Order 2015.
- The requirements of the notice are to dismantle the wooden and concrete fencing and supporting posts in their entirety and remove the resulting material from the site.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on ground (a) only as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.

Decision

1. The appeal is dismissed (see formal decision below).

Background information and relevant policy

2. The appeal site forms the extensive boundary of the dwelling house at No 22 Chestnut Grove, in the outer suburb of Leeds known as Woodlesford. The appeal site/fence extends away from No 22 to the north-west and its boundary stretches along a significant stretch of Juniper Avenue. Due to the fact that the site narrows (in its middle section), Juniper Avenue is only developed on its north-eastern side. There is a railway line (belonging to Network Rail) being to the south west.

3. The residential estate is known as 'The Maltings' and No 22 lies to the north east of the railway line. Unlike the other houses within 'The Maltings', which have typically-sized housing estate gardens, No 22 has an extremely large curtilage. This is because it includes a long stretch of land (over 100m in length) extending towards the north-west which was formerly Network Rail land.

4. The two-storey, brick-built, detached house at No 22 has a double garage and a tiled roof. Its design is similar to others within the estate. Planning permission was granted in July 2016 for a single storey extension. This follows approvals for two other extensions which were built around 2004. The boundary treatment did not form part of the application in relation to the latest approval. The appeal fence comprises white/grey concrete posts with vertical, close-boarded panels between. These sit on a three course high, light-coloured stone plinth. The fence is approximately 1.5m high with the concrete posts being around 75mm above the capped light coloured timber sections.

Reasons

5. The main issue is the effect that the fence has had on the character and appearance of this part of Woodlesford.

6. The development plan comprises the Core Strategy 2014 (CS) and the saved policies of the Leeds Unitary Development Plan Review 2006 (UDP). CS Policy 10 and UDP Policy GP5 relate to design considerations. Policy N25 (Development and Site boundaries) indicates that boundaries should be designed in a positive manner using walls, hedges or railings which are appropriate to the character of the area.

7. These policies accord with, and are up-to-date with, the relevant ones in the National Planning Policy Framework (NPPF) which sets out a presumption in favour of sustainable development. The NPPF is a major material consideration in this case and the most relevant NPPF policies are within section 7 which 'requires good design'. In reaching my conclusions I have had regard to all of the relevant policies within the NPPF as well as to the guidance in national Planning Policy Guidance (PPG).

8. As referred to above the only factor which distinguishes the appellant's property from the others on the estate is its' rather unusually shaped and extensive, additional land. As indicated by the previous Inspector, who dealt with an appeal made by the occupants of No 20, Juniper Avenue is the longest road running through the estate. The fence in relation to that appeal was a 2m high vertically-boarded timber enclosure and apparently replaced 'low vegetation'. The Inspector concluded that the fence had a detrimental effect on the character and appearance of the estate. At the time of my visit I noted that a laurel (or similar) hedge was being grown between the fence and the footway.

9. Having viewed the appeal boundary fence for No 22 from both near and distant viewpoints, I share the Council's concerns that it is visually harmful and detrimental to the character and appearance of the estate. Whilst acknowledging all of the problems that the appellant has had in trying to protect his land from incursion and trespass, I find it to be significantly harmful to the character and appearance of this well-landscaped and attractive housing estate.

10. The estate is characterised generally by low or open front boundaries. Where walls and other enclosures have been erected, they are usually built of brickwork to match the buildings with dark stained timber sections between the brickwork piers. There are several examples of this type of enclosure with diagonally laid timber boards and it would appear that these were covered by the original planning permission for the site. As such, in terms of materials and design, they are visually complimentary to the design, appearance and layout of the estate as a whole. They also appear to provide necessary screening to private areas to the rear or sides of some of the houses.

11. The appeal enclosure on the other hand contrasts markedly with the other enclosures. With its concrete posts, light coloured timber and dwarf stone walling it has the appearance of an enclosure which might surround an industrial estate, rather than being a boundary treatment on a well-landscaped and attractively detailed housing estate. I have noted that there is some support for the appellant's fence on the basis of security and preventing unauthorised uses of the land. However, in my view, such factors carry very little weight in the determination of this appeal. I also consider that very little weight can be given to the arguments relating to Network Rail not maintaining its own remaining land in a proper manner.

12. Like the Council, I acknowledge the need for a fence for the safety of his family and to prevent vandalism. However, there are other means of providing enclosure which would not be detrimental to the character and appearance of the estate and which would not result in such a utilitarian, stark and alien element within the street scene. I consider that this particular fence is contrary to policy P10 of the CS and policy GP5 of the UDP. It is poorly designed; it detracts from the character of the area and has a most unacceptable detrimental effect on visually amenity. It cannot be said to have been designed in a positive manner and I find it to be more stark and alien than that at No 20 which was refused permission by a previous Inspector.

13. It follows that the fence as built is also contrary to policies within the NPPF and particularly those set out in section 7. The NPPF indicates that '*good planning is indivisible from good design'* and that development of poor design which '*fails to take opportunities available for improving the character and quality of an area and the way it functions'* should not be granted planning permission. The Council's Householder Design Guide is also a material consideration which seeks to avoid high enclosures which are detrimental to the character of estate houses such as these and the spaces between them.

14. I conclude on the main issue that the fence is harmful to visual amenity and on the character and appearance of the street scene within this part of The Maltings estate. As indicated above this is contrary to both local and national policies and none of the other material considerations, either in themselves or taken together, carries sufficient weight to indicate that the decision should be made other than in accordance with the development plan. The appeal on ground (a) and the deemed application do not, therefore, succeed.

Other Matters

15. I note that the land is private and that no access is allowed to others. I also accept that the fence may assist in winter with regard to falling leaves. However, I do not accept the arguments put forward which suggest that the fence is not contrary to policy GP5. For the reasons set out above I find the fence to be environmentally intrusive and totally inappropriate to its location. Matters relating to danger to health or life; highway safety and prevention of crime do not in my view outweigh the harm which I have identified above.

16. With regard to the costs involved in complying with the notice I sympathise with the predicament in which the appellant now finds himself. However, the Council did not consider that planning permission should be granted for the retention of the fence as built; I agree with their reasons for refusal and it is not justified, therefore, to grant approval at this appeal stage.

17. I have considered whether or not it would be appropriate to allow the retention of the fence subject to conditions or to vary the notice, for example by reducing the height of the fence. However, due to its particular construction I consider that neither approach could be made to be precise or reasonable in all respects.

18. In noting the appellant's contention that the Council has failed in its obligation to work with him to find an alternative solution, I consider that this could still be a way forward to resolve the situation. However, that would be a matter between the appellant and the Council. If such negotiations are carried forward the Council has the discretion to extend the compliance period.

19. In reaching my own conclusions I have taken into account all of the other matters raised by the Council and the appellant. These include the planning history; the initial grounds of appeal, the respective statements; the final

submissions and all of the photographic evidence. In particular I have considered each of the 5 issues set out in the grounds of appeal. These relate to security and access; safety for children; pedestrian and road user safety; aesthetic value and the replacement of the fence.

20. However, none of these carries sufficient weight to alter my conclusion on the main point at issue and nor does any other factor carry sufficient weight so as to change my decision that planning permission should not be granted for the unauthorised fence as built.

Formal Decision

21. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177 (5) of the Act.

Anthony J Wharton

Inspector