



Appeal Decision

Site visit made on 2 July 2019

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th July 2019.

Appeal Ref: APP/V4630/D/19/3222896

11 Excelsior Grove, Pelsall, Walsall, West Midlands WS3 4PX

- 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 Gary Price against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 15/1241, dated 13 August 2015, was refused by notice dated 24 October 2018.
 - The development is a replacement of existing garden wall with new fencing at new position on property boundary.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The proposal, a fence enclosing the side garden of the appeal dwelling, has already been erected. The appellant is therefore seeking the retention for what has been built and I determined the appeal on that basis.
3. It has been brought to my attention that the Council have instigated enforcement action and that an enforcement appeal under S.174 of the Town and Country Planning Act 1990 ('the Act') has been submitted relating to the appeal property¹ but is yet to be determined. That action and the other appeal had had no bearing on my separate consideration of this appeal under S.78 of the Act.

Main Issue

4. The effect of the development on the character and appearance of the surrounding area.

Reasons

5. The appeal property comprises a detached dwelling located within a modern residential estate setting. Dwellings are primarily detached, built in facing brick and set back from the highway. The intervening spaces between the estate road and dwellings are characterised by driveways and open lawned gardens containing shrubs and trees giving the estate a verdant open plan appearance.
6. The majority of the estate's dwellings have their front facades facing the street, however, the appeal property contrasts by having its flank wall facing the

¹ APP/V4630/C/19/3232926

street. There are similar properties in the estate with this relationship and in these instances brick walls set back from the highway provide screening for rear gardens. The appeal property differs in that it has a wooden fence, not a brick wall, is longer in length and encloses a significant area that would otherwise be left open. This has the effect of siting the boundary enclosure closer to the road, than it is understood that the previous structure was, and appearing more prominent in the street. Given the scale and position of the fence, this has resulted in a dominant and discordant boundary structure in harmful contrast to the more open, landscaped frontages in the street such that it will have a detrimental influence on the area.

7. Some low-level shrubs were evident in the narrow space between the fence and the back of the highway. I acknowledge that these soften the appearance of the fence to some extent, however, I do not consider the planting effectively mitigates the harm caused. Irrespective of the space available between the fence and the footway the fence is evident and would be likely to remain so even as shrubs mature and there is no certainty, they would entirely screen, or that the planting endures.
8. Consequently, the fence has caused material harm to the character and appearance of the surrounding area and is therefore contrary to saved Policies GP2 and ENV32 of the Walsall Unitary Development Plan (the UDP), adopted 7 March 2005. This, amongst other matters, requires development to make a positive contribution to the environment and take account of the visual relationship of the development with adjacent areas, the street and the character of the surrounding neighbourhood. The fence is also contrary to the National Planning Policy Framework's requirements (at paragraph 124 and 127) that high quality places are created and that developments are sympathetic to local character.

Other Matters

9. The appellant has provided pictorial evidence of cars parked on the estate road to maintain that the open plan appearance of the estate is lost by their presence. However, this is a transient rather than a permanent effect, materially different to a permanent fence of the extent in situ whilst also falling outside the control of planning regulation. Accordingly, I have not attached any great weight to this.
10. In support of the appeal my attention has been drawn to other properties in the area that have structures close to the road in a similar manner to the appeal proposal, namely 41 Fairburn Crescent and 76 St. Paul's Crescent. I saw that these are very much in the minority and I do not know the full circumstances of those cases or the policies that applied at the time of their consideration. In any case, No 41 relates to a structure rather than a means of enclosing space, while fencing at No 76 is on a neighbouring street which differs in character making it difficult to draw similarities with the appeal property.
11. Furthermore, I have had regard to the letters of support from neighbouring occupiers which consider the fence to be acceptable, however these do not overcome my concerns. The security benefits of the fence outlined by the appellant are also noted, but there is no evidence that these concerns could only be addressed by way of the fence. These other matters do not, therefore lead me to a different decision.

Conclusion

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

R. E. Jones

INSPECTOR