
Appeal Decision

Site visit made on 3 September 2019

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2019

Appeal Ref: APP/N4720/C/19/3224367

Land at 39 Churchville, Micklefield, Leeds LS25 4AP

- 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 Mrs Amy Addey against an enforcement notice issued by Leeds City Council.
 - The enforcement notice was issued on 20 February 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission the erection of timber fence and posts exceeding one metre in height, located adjacent to the highway used by vehicular traffic, which exceeds the height permitted under The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 2, Class A.
 - The requirements of the notice are to either:
 - A) Dismantle and remove all the unauthorised fence and posts; or
 - B) Reduce the unauthorised fence and posts fronting the highway of Churchville to no higher than 1 metre above ground level.
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that:

- The enforcement notice be corrected at paragraph 3 by inserting the words "and associated gates" after "timber fence and posts."
- The enforcement notice be corrected at paragraph 5 by inserting the words "and associated gates" after "unauthorised fence and posts" in both option A and B.

2. Subject to the corrections above, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matter

3. An appeal was also lodged by Mr Martin Addey. However, since the prescribed fees have not been paid for that appeal within the specified period, the appeal which was on ground (a) only, and the application for planning permission deemed to have been made under section 177 (5) of the Act as amended have lapsed.

The Enforcement Notice

4. The breach of planning control as alleged in the notice is: Without planning permission the erection of timber fence and posts exceeding one metre in height, located adjacent to the highway used by vehicular traffic, which exceeds the height permitted under The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 2, Class A. However, it was clear from my site visit and subsequently confirmed by the Council that the gates within the fence are also a breach of planning control. I will therefore correct the alleged breach of planning control by inserting the words "and associated gates" after "timber fence and posts." In addition, I have corrected the requirement of the notice by inserting the words "and associated gates" after "unauthorised fence and posts" in both option A and B.
5. Both parties have had an opportunity to comment on these corrections and I have taken into consideration the appellant's objection to the inclusion of the gates in the notice. However, the intent of the enforcement notice was clear and supported by the reasons for issuing the notice. I am therefore satisfied that the correction will not cause injustice to the appellant or the local planning authority.
6. The appeal is made on ground (a) only and it is not argued that the erection of the fence, posts and associated gates are development not requiring planning permission. I have therefore made my decision on the basis of ground (a) only.

Appeal on ground (a), deemed planning application

Main Issue

7. The main issue in this case is the effect on the character and appearance of the site and the surrounding area.

Reasons

8. The appeal site is located on a residential estate which has a distinct urban grain and is characterised by predominantly semi-detached two-storey dwellings. The properties are set back from the road and have modest enclosed front gardens and driveways. The fence, and gates within it, have been erected in a prominent location, extending across the whole frontage of No 39 Churchville which is situated on the corner of Churchville Terrace. I understand the fence replaced a hedgerow.
9. It was apparent from my site visit that a number of the original hedges which enclosed the front gardens of the houses on this estate have been removed and replaced with other forms of enclosure, including wooden fences and brick walls. However, in most of those cases the replacement walls and fences are no more than a metre in height and are not extensive in length. Overall, they do not significantly detract from the appearance of the street.
10. The height and design of the means of enclosure that has been erected in this appeal case has resulted in a dominant structure, whose timber and concrete construction has a harsh and stark appearance. Moreover, its height, length and position at the front of the property, adjacent to the footway, presents a bland and enclosed frontage to passers-by, which contrasts markedly with the verdant character of much of the surrounding area.

11. The appellant has provided a large number of examples of other fences and means of enclosure in the area, and I was able to see many of those on my site visit. However, I do not know the precise circumstances and planning considerations concerning those other means of enclosure and how these equate to those at the appeal site. In any event, I have determined the appeal on its own merits.
12. I conclude that due to the combination of its length, position, design and height, the fence, gates and posts have caused substantial harm to the character and appearance of the site and the surrounding area. Its retention would conflict with Policy P10 of Leeds Local Development Framework Core Strategy (adopted 2014) and saved Policy GP5 of the Leeds Unitary Development Plan (review 2006) which seek to ensure, amongst other things, that new development respects the character and quality of surrounding buildings, streets and spaces that make up the public realm and the wider locality and avoid environmental intrusion. I also find conflict with the one of the aims of the National Planning Policy Framework which is to promote good design.

Other Matters

13. I appreciate the appellant's desire to provide a safe and secure place for her family to play and to provide off-street parking. However, I am not convinced that these benefits, important though they are, outweigh the visual effects of the fencing, particularly as it also bounds the front garden within which a lower level of privacy and security would normally be expected. In addition, off-street parking could still be provided with a fence and gates which do not exceed a metre in height.
14. I have noted the points made by the appellant about the Council's handling of the matter. However, these points have not affected my decision, which is based on the planning merits of the proposal.

Conclusion

15. For the reasons given above and taking into account all other matters raised, I conclude that the appeal on ground (a) must fail. I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the deemed application.

Elizabeth Pleasant

INSPECTOR