The Planning Inspectorate

Appeal Decision

Site visit made on 20 January 2020

by S A Schinaia MSc EngD FGS

an Inspector appointed by the Secretary of State

Decision date: 13 March 2020

Appeal Ref: APP/Y2620/W/19/3238357
The Works, Whimpwell Green, Happisburgh, Norfolk NR12 0AJ

- 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 Ray Andrews against the decision of North Norfolk District Council.
- The application Ref PF/19/0461, dated 15 March 2019, was refused by notice dated 14 June 2019.
- The development proposed is described as the "erection of mesh security fencing to boundary of site".

Decision

1. The appeal is dismissed.

Procedural Matters

2. A mesh security fencing and gates have been erected, which appear to be in accordance with what is proposed. Nonetheless, I have based my decision on the proposal drawings and details that were before the Council when it determined the appeal planning application.

Main Issue

3. The main issue is the effect of the appeal development on highway safety, free movement within the highway and its maintenance.

Reasons

4. The front security fencing and gates were erected in front of both the tree line and the ditch, about 2500 mm from the highway at the north boundary and 2600 mm from the highway at the south boundary, adjacent the entrance of the property called "Jaycees".

5. Following concerns from the owners of "Jaycees", the Council states that due to its position the fence would reduce visibility of and from cars at the exit of the neighbouring property located southeast of the appeal site resulting in a traffic hazard. However, the Local Highway Authority (LHA) has ascertained that the position of the fence would still allow a visibility in excess of the required 43 m to the north from the access serving "Jaycees".

6. A map of Whimpwell Street provided to the appellant by the LHA states that the Highway Boundary along the site follows the road-side edge of the drainage ditch. Therefore, the fence would be constructed on the public highway. However, the Highway map and the plans provided for the appeal site,

including a Land Registry map, do not help to establish clearly where the boundary between the private land and the public highway is located. Since no survey to establish the detailed boundary position is before me, I favour the submissions of the LHA given their statutory role and expertise in such matters.

7. The LHA advise that the fence restricts the public use of the highway and causes an obstruction of the public right of free and unhindered passage. Since the fence encloses the drainage ditch, the LHA can no longer access the ditch to ensure the safe drainage of the carriageway. It also causes an obstruction of the public right of free and unhindered passage and consequently endangers the satisfactory functioning of the local highway network, albeit to a limited extent given the likely amount of encroachment and the retained, unobstructed width of the highway adjacent to the site.

8. For the forgoing reasons, therefore, the appeal development would enclose a section of highway thereby detrimentally affecting its safe use and maintenance. Consequently, I conclude that in that regard the proposal conflicts with Policy CT5 (The Transport Impact of New Development) of the North Norfolk Core Strategy (2008).

Other Matters

9. The appellant's efforts to look after the enclosed areas of the public highway and the other suggested benefits of the fence, including the health and safety issues related to the presence of the ditch are noted. However, the fence appears to be on the public highway and inhibits the LHA accessing the ditch and the use of the public highway. Although the appellant has committed to providing access to the ditch from within the property whenever needed for maintenance, the scheme would still impede free access to the ditch and restrict the public right of free and unhindered passage.

Conclusion

10. For the above reasons, I conclude that the appeal should be dismissed.

S A Schinaia

INSPECTOR