



Appeal Decision

Site visit made on 24 June 2020

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2020

Appeal Ref: APP/J2210/W/20/3246687

15 Updown Way, Chartham, Kent CT4 7TP

- 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 Ms Faye Geoghegan against the decision of Canterbury City Council.
 - The application Ref CA/19/10040, dated 15 November 2019, was refused by notice dated 13 January 2020.
 - The development was initially described as *"1.83m high fence adjacent to highway on corner of Updown Way/Sycamore Close, including access gate. Change of use from open space to residential garden."*
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development in the heading above has been taken from the planning application form, albeit with the words 'retrospective application for' removed as that is not an act of development. At Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application. I have, however, had regard to all comments made by all interested parties in respect of the description that was the subject of public consultation. In any event, the descriptions used are similar and, therefore, no party would be prejudiced through the use of the abovementioned description of development.
3. The development to which this appeal relates has already occurred. Accordingly, I have considered this appeal on a retrospective basis.

Main Issue

4. The main issue is the effect of the timber fence on the character and appearance of the site and the surrounding area.

Reasons

5. Updown Way is a residential street that consists of dwellings that appear to have been arranged in a planned manner with areas of open green space in several prominent locations adjacent to the roads, most notably at the junctions. The gardens of residential properties are demarked with a mixture of enclosures including hedges and shrubs, walls, and various types of fencing. Most examples of timber fencing within the immediate vicinity of the appeal site are relatively short in length and located discreetly at the side and rear of dwellings.

6. The description of the development and the evidence before me indicates that the land at the appeal site was formerly unenclosed green space that has become part of the garden of 15 Updown Way, with the parking area serving that dwelling also being extended onto that land. The majority of the land at the appeal site has been enclosed with a timber fence which sits immediately adjacent to the footway of Sycamore Close and Updown Way.
7. The positioning of the fence adjacent to the abovementioned footways and at the junction of Sycamore Close and Updown Way causes it to be a prominent feature of the street. Moreover, due to its length and solid form, the fence has an unrelenting appearance that dominates the abovementioned junction and obstructs views through the immediate vicinity. Accordingly, the amount of fencing, its prominence and its dominating effect causes the development to have an appearance that is incongruous and discordant in the surrounding area and detrimental to the character of the locality. The staining of the timber fence would not substantially alter the effect of the fence in this regard.
8. Other fences exist within the wider area, but no details have been provided of the planning history of those fences and, as such, their presence can only be afforded limited weight. In any case, the examples that have been brought to my attention are distant from the appeal site and do not affect the context in which the fencing at the appeal site is viewed. Furthermore, most of those examples are either shorter in length, positioned more discreetly relative to the public domain or are in areas of different character to that which surrounds the appeal site. Therefore, the presence of other fences within the wider area does not alter my assessment of the visual effect of the development that is the subject of this appeal.
9. The appellant, the Council and other interested parties have a range of opinions in respect of the manner in which the land was previously kept and the extent to which the site contributed to the character and appearance of the street and the locality. In this regard, some have suggested that the land was poorly kept, overgrown and a nuisance but others have suggested that the openness of the site and the presence of vegetation contributed positively. The evidence before me is not conclusive in these respects. However, even if I proceed on the basis that the land was kept in a poor condition as described by the appellant and other supporters of the development, I have no reason to conclude that the enclosure of the land in the manner that has occurred would be the only way to address that matter. Accordingly, this factor does not alter my assessment of the visual harm caused by the fence.
10. For the reasons set out above, the timber fence has an unacceptable effect on the character and appearance of the site and the surrounding area. The development is, therefore, contrary to policy DBE3 of the Canterbury District Local Plan (adopted July 2017) which requires that development is of high quality that reinforces and positively contributes to its local context, creates attractive places and has regard to the character, setting and context of the site. The development also conflicts with paragraphs 124 and 127 of the National Planning Policy Framework which require that developments create high quality places that function well, add to the overall quality of an area, are visually attractive and are sympathetic to local character.

Other Matters

11. The appellant has identified that the enclosure of the land at the appeal site was a condition of the purchase of the land. However, this represents a private agreement that does not influence planning considerations and has no bearing on my decision.

12. The appellant, the Council and interested parties have contrasting views in respect of a number of matters including the ecological and biodiversity value of the land, the effect of the presence of CCTV cameras, the installation of lighting, the previous occurrence of anti-social behaviour and the effect on flooding and highway safety. In some of these respects, the evidence before me is inconclusive and, in others, the issues that have been raised fall outside of the scope of planning considerations. However, I note that the suggested benefits include the maintenance of the land, the improvement of the appearance of the site, the prevention of anti-social behaviour and the improvement of highway safety due to the removal of some foliage.
13. Even if I have regard solely to the suggested benefits of the development and set aside the criticisms, I have no basis to conclude that the development that has occurred represents the only manner to secure those suggested benefits. Neither has it been demonstrated that those benefits could not have been brought about without causing the harm that has been identified in respect of the main issue. Accordingly, the suggested benefits of the development do not outweigh the harm that has been caused and the associated conflict with the development plan.
14. I recognise that various parties disagree as to whether or not the land at the appeal site should be considered to be public open space. Whilst I have had regard to the submissions of all parties in this respect, this factor would not alter my assessment of the visual effect of the fence. Moreover, however the land is classified, it would not represent a reason to find the effect of the timber fence acceptable. Accordingly, this is not a matter that I shall address any further.

Conclusion

15. For the reason given above, I conclude that the appeal should be dismissed.

Ian Harrison

INSPECTOR