The Planning Inspectorate

Appeal Decision

Site visit made on 23 June 2020

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd September 2020

Appeal Ref: APP/N4720/D/20/3246203
63 Old Road, Farsley, Pudsey LS28 5BR

- 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 John Simms against the decision of Leeds City Council.
- The application Ref 19/06358/FU, dated 15 July 2019, was refused by notice dated 23 December 2019.
- The development proposed is described as: Erect approximately 5 metre length timber fence to height of approximately 1.7 metres to 2 metres along boundary to property on Old Road and similar along boundary to property on Glenholme Road.

Decision

1. The appeal is dismissed.

Procedural matter

2. The development has already been carried out and I was able to see it when I visited the site. Although the decision notice issued by the Council describes the proposal as 'Retrospective application for boundary fence to front and side boundary', Section 55 of the Town and Country Planning Act 1990 (the Act) describes development as the carrying out of building operations, or the making of material changes of use, as opposed to their retention or continuation. Section 73A of the Act makes allowance for the submission of a planning application for development which has been carried out before the date of the application and, consequently, I have considered the appeal on that basis.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the character and appearance of the Farsley Conservation Area.

Reasons

4. The appeal site is located within the Farsley Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in making decisions on planning applications and appeals within a Conservation Area, special attention is paid to the desirability of preserving or enhancing the character and appearance of the area.

5. The appeal site is one half of a pair of semi-detached houses dating from the late Nineteenth or early Twentieth Century, located at the junction of Old Road

and Glenholme Road. The house has garden areas to the front, side, and rear and has previously had a small side extension added.

6. The property is bounded by a low stone wall on the Old Road frontage with stone gate piers at the pedestrian gate and pathway to the front door. The wall returns around the corner onto Glenholme Road where it steps up in height from a point approximately in line with the front elevation of the house and continues along the side boundary of the property. The fence has been erected behind this wall and extends to a height of between approximately 1.7 metres and 2 metres depending on the slope of the adjoining footway. Although the fence continues along the entire length of the side boundary to Glenholme Road, the appeal proposal only relates to the first length of approximately 4.1 metres from the corner of Old Road and Glenholme Road in addition to the stretch along the Old Road frontage.

7. The Farsley Conservation Area is relatively extensive and includes two large textile mill complexes, areas of terraced and back to back housing, and the historic core of the settlement, which includes commercial properties and several fine civic buildings. Old Road, which becomes Town Street further to the north, is the principal thoroughfare through the conservation area. In the northern part of the conservation area, on Town Street, buildings are generally sited at the back of the footway whereas in the southern section on Old Road, many properties are set back from the highway with a small front garden area normally bounded by low stone walls often with railings or hedges. On parts of Old Road, streets of terraced houses run perpendicular to the main road with the building gables set against the back of the footway and forming a strong degree of enclosure to the street, contrasting with the generally well kept gardens of the houses opposite.

8. There is little substantive evidence from either party regarding the significance of the Farsley Conservation Area. However, from what I saw when I visited the site, the significance of the conservation area, in so far as it relates to this appeal, is that it is illustrative of the expansion of the settlement in response to increasing industrialisation and the housing associated with it.

9. Whilst the appellant suggests that the gabled elevations of the terraced houses opposite the appeal site are not attractive and that in this context the proposed fence does not detract from the appearance of the area, they are nonetheless part of the historic character of the area and indicative of the way in which it was developed. It was clear from the site visit that these smaller terraced properties, many of which are in a back to back configuration, predate the larger, higher status, dwellings that are present on the west side of Old Road, which includes the appeal site. These latter properties have front garden areas which impart a degree of openness and greenery to the street scene, due to being enclosed by low walls or hedges, and the visual contrast between the two sides of the road is part of the character of the conservation area and illustrative of the different stages of housing development in the settlement.

10. During my site visit, I walked around the conservation area and I observed that high, close boarded, fences were not a common means of enclosure on street frontages within the wider area and that, in general, the frontages of properties, where these are present and enclosed, were bounded by low walls or in places low timber fences. Whilst there are some high hedges on frontages, these are in conjunction with low walls. The fence that has been

erected at the appeal site, inserts a high, solid, feature into the run of open frontages to the houses on this side of Old Road. Due to its height and prominent corner location appears as a dissonant and alien feature when viewed in context with the open garden areas of the neighbouring houses and I saw that it diminishes the open character of the frontages on the west side of Old Road. This is harmful to the appearance of the conservation area.

11. Whilst I have noted the appellant's point that there was an existing high fence on the Glenholme Road boundary of the appeal site, from the appellant's evidence, this was contiguous with the higher side boundary wall and was partially concealed by it, which reduced the visual effect. The new section of high fence is seen in conjunction with a much lower wall and, consequently, a significantly greater proportion of the fence is visible. In this context, I do not find that the appellant's argument that a continuation of the side boundary fence should not be considered incongruous is a compelling one. Nor is there any substantive technical evidence that would indicate that the fence provides a higher degree of noise attenuation than the high hedge that it replaced.

12. I have noted the appellants point that the fence has been in existence since June 2015 and the implication that the fence is lawful, or immune from enforcement action, due to the passage of time. However, this is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal of planning permission. It is open to the appellant to apply to the Council to have the matter determined under section 191 of the Act. Any such application would be unaffected by my determination of this appeal.

13. I have found that the fence causes harm to the character and appearance of the conservation area. Due to its inconsistency with the approach to the means of enclosure of front gardens, it diminishes both the ability to understand the evolution of housing in the area and the fortuitous aesthetic of the conservation area. Consequently, it is harmful to the significance of the conservation area. Due to the small size of the area concerned in relation to the overall size of the conservation area, this harm is localised to the near vicinity of the appeal site and its immediate surroundings and, as a result, is less than substantial.

14. The National Planning Policy Framework (the Framework) requires that where a development proposal would result in less than substantial harm to the significance of a designated heritage asset, in this case the Farsley Conservation Area, this harm has to be weighed against any public benefits of the proposal. The appellant has not identified any public benefits resulting from the erection of the fence. Whilst it may provide an additional degree of security to the property and may reduce road noise within the garden area, these are private benefits to the appellant.

15. The Framework is clear that great weight should be given to the conservation of designated heritage assets. This is irrespective of whether the potential harm amounts to total loss, substantial harm, or less than substantial harm to its significance. No public benefits have been identified that would overcome the great weight that must be given to the less than substantial harm that I have identified. I am mindful that the fence may have been in situ for more than four years. Nonetheless, it does not have the benefit of a Certificate of Lawfulness and this is not something that I can make a finding on in the

context of this appeal. In any event, this does not lead me to a different conclusion in respect of the harm that results to the heritage asset.

16. I therefore conclude that the proposed development would cause harm to the character and appearance of the Farsley Conservation Area. It would be contrary to the relevant requirements of Policies P10 and P11 of the Leeds Core Strategy; and Policies GP5 and BD6 of the Leeds Unitary Development Plan (Review 2006) which, when read together, expect new development to provide a good design that is appropriate to its location and which protects, and enhances, historic assets and locally important buildings; respects the scale and detailing of the original building; and preserves or enhances the character and appearance of conservation areas.

Conclusion

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

John Dowsett

INSPECTOR