



Appeal Decision

Site Visit made on 9 December 2020

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2020

Appeal Ref: APP/W3005/D/20/3262110

24 Fackley Way, Sutton in Ashfield, Nottinghamshire NG17 3HT

- 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 Christopher Taylor against the decision of Ashfield District Council.
 - The application Ref V/2020/0256, dated 27 April 2020, was refused by notice dated 10 August 2020.
 - The development proposed is outbuilding, boundary fencing and new vehicle access with gates.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the header above is taken from the appeal form and decision notice. I am satisfied that this is a clearer and more accurate description than that given on the original application form.
3. A portion of the fencing had been implemented at the time of my visit, along with some works in relation to the construction of the outbuilding. For the avoidance of any doubt, I have considered the appeal on the basis of the plans submitted to the Council.

Main Issue

4. The main issues in this appeal are the effect of the development on:
 - the character and appearance of the area;
 - the living conditions of the occupants of neighbouring properties, with particular regard to outlook and noise and disturbance, and;
 - highway safety, with particular regard to access.

Reasons

Character and appearance

5. The appeal site sits on a corner plot and is thus prominent from both Fackley Way and Greendale Close, which is a cul-de-sac. The outbuilding would project significantly above any existing boundary treatments and thus would be a prominent feature when viewed from Greendale Close. Similarly, the roofline in particular would be visible from the junction with Fackley Way. Owing to its

- proximity with 2 Greendale Close, and the slope of the road, the roofline of the outbuilding would visually clash with that of the neighbouring bungalow and create a jumbled and incoherent appearance.
6. This would be exacerbated by the distance the outbuilding would be from the main dwelling. While there are a number of examples of detached garages in the vicinity of the site, they are generally closely related to their host dwellings. This substantial outbuilding would be at the far end of the garden and would thus be poorly related to the bungalow itself. This, coupled with the overall scale of the building, would result in a somewhat incongruous overall appearance. This would be particularly the case when viewed from Greendale Close. The proposed fencing would provide a degree of screening. However, given my views below, this adds little weight in favour of the proposal.
 7. The appellant has indicated that a flat roofed building could be delivered under permitted development rights. However, although there are numerous examples of pitched roof outbuildings in the vicinity of the site, it is not the roof design in itself which is problematic. Rather, it is the excessive height of the building in relation to the neighbouring property and its proximity to the common boundary. As such, a shorter, flat roofed building would be less harmful than what is proposed. Accordingly, this potential fallback position does not weigh in favour of the proposal.
 8. The proposals for new fencing include a number of distinct elements; 1 metre tall fencing across the front of the dwelling, around the corner and partially down Greendale Close; roughly 2 metre high fencing along the remainder of the Greendale Close frontage, which would terminate in an angled driveway, with the tall fencing continuing to the side of a recessed access point and gates. The fencing would then continue along the common boundary with No 2, which angles away from the roadside. There is already a tall close-boarded fence in place along this boundary which, while not fronting onto the pavement, is still nevertheless a large and prominent feature in the street scene.
 9. As noted above, part of the fencing along Greendale Close has already been implemented. It is clear from this that the full extent of the proposed fencing would result in a long, tall and unbroken expanse of timber. The height, length and nature of this fencing would not present an attractive frontage to the street. It would be an unduly large and intrusive barrier that would detract from the appearance of the area.
 10. In coming to this conclusion, I have had regard to the boundary treatment of the dwelling on the opposite corner. The brick and timber design of that boundary results in a far less solid and imposing feature than what is proposed. As such, it does not appear as intrusive or unsympathetic to the street scene. This is also assisted by the relative height of the two-storey dwelling in relation to the height of the boundary. However, in the case of the appeal, the slope of the road and the height of the fences means that it appears somewhat out of proportion in relation to the height of the bungalow. This accentuates the visual prominence and intrusive nature of the fencing.
 11. The appellant has also provided photographs of other locations where tall fences sit along the roadside and/or on corner plots. While the exact locations of these were not specified, I was able to observe a number of examples in the vicinity of the site. However, fencing of this type along road frontages was still

in the minority. Moreover, I do not know the circumstances of those cases in which the examples were approved. Indeed, the Council's officer report suggests that some nearby examples do not benefit from planning permission themselves. In my view, these other examples do not add significant weight in favour of the proposal. In the main, they tend to be large and unsympathetic features which do little to contribute positively to the visual quality of the area. In effect, these tend to confirm the likely negative impact of the fencing proposed here.

12. Apart from the obvious example of No 26, and others in the vicinity drawn to my attention, the shorter fencing proposed would still be at odds with many nearby frontages which remain largely open. The more enclosed frontage would stand out in this regard and be a mildly incongruous feature, particularly when considered alongside the taller fencing. The fence along the common boundary with No 2 would also be less harmful as it would be away from the road, behind the existing fencing and not be as uncommon or intrusive a feature. In isolation, these elements would be unlikely to result in material harm. However, when considered as a whole, the boundary treatments would not be acceptable.
13. The appellant has suggested the fencing to the front could be reduced to 600mm. However, it is not appropriate for the proposal to evolve during the appeal. I must consider what was before the Council and on which the views of interested parties were sought.
14. In conclusion on this matter, I therefore find that the development would result in unacceptable harm to the character and appearance of the area. Accordingly, there would be conflict with Ashfield Local Plan Review (ALPR) (2002) policies ST1 and HG7 and Policy NP2 of the Teversal, Stanton Hill and Skegby Neighbourhood Plan which seek to ensure, amongst other things, that development respects and does not adversely affect local character.

Living conditions

15. The outbuilding would be seen well above the garden fences of neighbouring properties. However, being visible does not necessarily mean that it would have an overbearing presence on neighbours' outlooks. The evidence suggests that the windows along the flank wall of No 2 serve non-habitable rooms. As such, it is unlikely that the building would have an unacceptable impact on the outlook from these windows.
16. There is also no substantive evidence to suggest the building would have an enclosing effect on the outlook from the gardens of either neighbouring property. It would be located well away from the rear garden of No 2 and the garden of 22 Fackley Way appears sufficiently large so that the development would not create an undue sense of enclosure.
17. The Council's decision notice does not refer to noise or disturbance. Nevertheless, the officer report concludes that the development could have a negative impact on neighbours in this regard. The proposal is for a domestic outbuilding and it is possible that this might occasionally give rise to some noise. There is nothing to suggest this would be out of the ordinary for a residential area. While the building would be close to the common boundary with No 2, I see no reason in principle why a domestic outbuilding would

necessarily lead to the level or persistency of noise that would result in material harm to living conditions.

18. In conclusion on this matter, I find that the development would not result in unacceptable harm to the living conditions of neighbouring occupants. In this regard there would be no conflict with ALPR policies ST1 or HG7 which seek, amongst other things, to ensure development does not harm the amenity of neighbouring properties.

Highway safety

19. The Council's concern relates primarily to the inability to provide adequate visibility splays either side of the proposed access. The appellant has submitted plans which demonstrate the fencing would constrain visibility to a degree in either direction. It is therefore possible that vehicles exiting the site would have to edge out onto the pavement to see clearly in both directions.
20. Greendale Close is a cul-de-sac which serves a relatively small number of dwellings. On this basis it would be reasonable to assume that the number of passing vehicles or pedestrians is not particularly high. Moreover, this is a residential area and the speed of passing traffic will be low. There are also a number of existing vehicular accesses in the vicinity of the site. As such, the potential for vehicles to be accessing or egressing properties on the Close will be well known and drivers will drive accordingly. The access would also be reasonably wide which would advertise its presence to any passers-by. Again, this should ensure drivers and pedestrians will be mindful of the potential for vehicles exiting the site.
21. On this basis, the degree of visibility achievable would not result in unacceptable safety risks. Accordingly, there would be no conflict in this regard with ALPR Policy ST1 which seeks, amongst other things, to ensure development does not adversely affect the transport system. There would also be no conflict with paragraph 109 of the National Planning Policy Framework which states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety.

Other Matters

22. I have noted the appellant's comments with regard to the need for security. Nevertheless, there is nothing to suggest that similar levels of security could not be achieved in a less harmful manner. I have also noted the appellant's comments in relation to the financial viability of implementing the Council's preferred solution. This is not a sufficient justification to allow something that would be harmful. Similarly, the Council's suggestion may not be the only acceptable boundary treatment.
23. The appellant sought to address the Council's concerns by making amendments to the scheme during their consideration of the application. However, I must consider what is before me on its own merits. On this basis, I find the development would be harmful.
24. The issue of who is responsible for the common boundary fence is a private matter between individuals and is outside the scope of the appeal.

Conclusion

25. Notwithstanding my views on living conditions and highway safety, the development would still result in unacceptable harm to the character and appearance of the area. There are no other material considerations that would outweigh this conclusion. For this reason, the appeal is dismissed.

S J Lee

INSPECTOR