



Appeal Decision

Site Visit made on 16 November 2021

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2021

Appeal Ref: APP/U1430/D/21/3270445

1 Raven Court, Battle TN33 0DD

- 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 Mrs Lucy Pooley against the decision of Rother District Council.
 - The application Ref RR/2020/487/P 1 Raven Court, dated 15 March 2020, was refused by notice dated 15 February 2021.
 - The development is described as 'the erection of a fence.'
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the Council's wording in the description of development as it more accurately describes the proposal, omitting the reference to retrospective as that does not describe an act of development. The fact that the development has occurred has had no bearing on my decision.
3. A revised Framework¹ was published by the Government between the determination of the planning application and the appeal coming before me. I am satisfied that this latest version of the Framework does not raise any new considerations in relation to this appeal. The substantive elements of it remain the same as the previous version with regard to the main issues of this appeal.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the area, including having regard to the Area of Outstanding Natural Beauty (AONB).

Reasons

5. The appeal relates to land which borders the footpath on Falconers Drive, near its junction with Harrier Lane. The site is located within a residential area which itself is within the AONB. In keeping with such a setting, properties are generally set in from their site boundaries and have open frontages, which contributes to the sense of space. Where means of enclosure are evident, they are not so prevalent as to be an overriding characteristic of the area.
6. The fence results in a high, visually impermeable feature. It is a dominant and incongruous structure in a conspicuous position which is at odds with the surrounding area. As a result, it harmfully erodes the attractive open character

¹ National Planning Policy Framework (2021)

of the wider area, including that of the AONB. I accept that the wooden fence will weather over time, but this would not alter my findings with regard to the above.

7. As such, the development is harmful to the character and appearance of the area, including the AONB. Accordingly, the proposal would be contrary to Policies OSS4 (iii), EN1 and EN3 of the Core Strategy² and Policies DEN1, DEN2, DHG9 and DHG11 of the Local Plan³, which amongst other things, seek to ensure development, including boundary treatments, contribute positively and do not detract from the character and appearance of the locality, including the AONB. The proposal would also be contrary to Paragraph 134 of the Framework, which amongst other things, seeks to resist poorly designed development.

Other Matters

8. I have considered the effect of the development on the character and appearance of the area. Any rights of way issues would be outside the scope of this appeal.
9. Examples of other means of enclosure in the area have been pointed out to me. However, such examples are limited, and their existence does not alter the adverse effects this development would have on the character and appearance of the area. I have therefore considered the appeal proposal on its individual merits and with regard to the specific circumstances of the site.
10. I understand that the fence replaced what were said to be dangerous and unsightly metal railings and was intended to deter children from climbing the concrete wall beneath. I also acknowledge that the fence would have been erected at some financial cost to the appellants. However, these factors in themselves are not sufficiently strong enough reasons to persuade me to allow, what I have found to be, a development which is harmful to the character and appearance of the area.
11. The appellants have indicated that they would be prepared to reduce the height of the fence and include some planting. However, the appeal process is not designed to evolve a scheme, particularly as it would deprive those with a legitimate interest in the appeal from commenting on new aspects of the proposal. It is for this reason that I have limited my decision to the scheme which was considered by the Council.

Conclusion

12. The proposal would harm the character and appearance of the area, which includes the AONB, in conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Stewart Glassar

INSPECTOR

² Rother Local Plan Core Strategy

³ Rother Development and Site Allocations Local Plan