



Appeal Decision

Site visit made on 9 March 2022

by M Clowes BA (Hons) MCD PGCERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2022

Appeal Ref: APP/W4223/D/22/3290515

10 Spurn Lane, Diggle OL3 5QP

- 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 James Cowan against the decision of Oldham Council.
 - The application Ref HOU/347558/21, dated 12 September 2021, was refused by notice dated 23 December 2021.
 - The development proposed is described as 'erection of a new timber fence on the rear boundary of the property.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the first line of the description of development from the planning application form as this adequately describes the proposal. Since the development has been carried out, retrospective planning permission has been sought. I have determined the application accordingly.

Main Issue

3. The main issue is the effect of the development upon the character and appearance of the area.

Reasons

4. The appeal site relates to a detached dormer bungalow which sits below Standedge Road, a main A road (A670). The rear garden slopes steeply to meet the road, beyond which the land to the west continues to rise steeply. Here Standedge Road has a leafy, rural quality, characterised by low density housing, low stone boundary walls and plentiful tree coverage.
5. A vertically boarded timber fence has been attached to the original concrete post and rail fence running along the rear boundary, that also abuts the pavement along Standedge Road. The Council has noted that it may encroach onto land owned by the Highway Authority as a result. The fence is approximately 2m in height, as cited by the appellant, and it continues along part of the rear boundary belonging to 14 Spurn Lane, which is outside the appeal site. The fence also continues around the corner, stepping down to follow the boundary with the public right of way to the north of the dwelling.
6. Due to its position, height and length, the fence forms a large, solid and incongruous feature that is visually prominent and at odds with the prevailing verdant and rural quality of Standedge Road. The inharmonious appearance of

the fence is exacerbated by the use of significantly taller upright posts between the timber panels, which draw the eye. The fence is also highly prominent from the public right of way that runs to the side of the appeal property. As the speed limit on Standedge Road changes to 40mph just beyond the appeal site, vehicles travelling in a southerly direction are slowing down as they approach the site. As such, the fence does not appear as a blur to passing drivers. Although adding a dark paint or stain would improve its appearance, it would not overcome the harm caused by the height and scale of the fence.

7. Fences of this design, length and height are not a common feature of the street scene in this location. Whilst a fence exists on the opposite side of Standedge Road, it is a low picket-style fence with extensive planting that can be seen through the structure. I also saw that there is a low timber fence above a wall at Ambrose Bank and 1 Marslands. Each of these fences is lower and above a traditional stone wall, resulting in significantly less visual impact than the fence here.
8. Whilst the fence may not impact on neighbouring properties, this does not justify development that would be harmful to the character of an area. The benefits of the fence to the appellant are private. However, planning decisions have to be made in the public interest in accordance with the Development Plan. The fence conflicts with the Development Plan for the reasons given above. Furthermore, no evidence such as accident data has been supplied to demonstrate the safety risk to motorists or pedestrians from typical residential activities within the rear garden, prior to the erection of the fence. These matters do not therefore alter my findings on this appeal.
9. Whilst I understand the appellant's desire for noise reduction from the road, and privacy and security of their property and garden, I am not convinced that the fence is the only way of achieving this. It is likely that there are alternative forms of boundary treatment available that would meet these objectives, whilst better complementing the character of Standedge Road. The appellants have already screened the hot tub within the garden, by the planting of a hedge. The first floor rear windows are relatively narrow which limits the potential visibility of occupants inside, and window coverings can be closed for privacy when necessary.
10. I have taken into account Article 8(1) of the European Convention on Human Rights as enshrined in the Human Rights Act 1998 which states everyone has the right to respect for his private and family life. However, having regard to the well-established planning policy aims to protect the visual amenity of an area, I consider that the right to privacy does not outweigh the harm identified to the character of the area in this instance. Dismissal of the appeal would be proportionate, and it would not result in an unacceptable violation of the human rights of the appellant.
11. The appellant has stated that they feel discriminated against, as they suggest the Council has not taken action against the neighbouring fence. Having due regard to the Public Sector Equality Duty contained in the Equality Act 2010, there is no evidence before me that any discrimination has occurred. It is a matter for the Council to decide any next steps in relation to the fence, including any possible unauthorised development at 14 Spurn Lane.
12. I conclude that the fence has a harmful effect upon the character and appearance of the area. It therefore conflicts with Policies 9 and 20 of the

Oldham Local Development Framework: Development Plan Document - Joint Core Strategy and Development Management Policies (2011), which seek to ensure that new development is of a high quality and does not have a significant adverse impact on the visual amenity of the surrounding area. It is also contrary to the National Planning Policy Framework (2021), which amongst other things, requires that developments are of a high-quality design and sympathetic to local character.

Conclusion

13. For the above reasons, having regard to the development plan as a whole and all other relevant considerations, the appeal is dismissed.

M Clowes

INSPECTOR