



Appeal Decision

Site visit made on 29 March 2022

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12TH April 2022

Appeal Ref: APP/Y2736/D/22/3291222

11 Acre Way, Malton YO17 7AG

- 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 Nicola Shaw against the decision of Ryedale District Council.
 - The application Ref 21/01391/FUL, dated 15 October 2021, was refused by notice dated 3 December 2021.
 - The development proposed is described as removal and relocation of south-facing brick garden wall out by approx 1.2m to the boundary line.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. It is noted that the appellant has presented an amended scheme as part of their appeal. This is materially different to the refused plans and interested parties have not had an opportunity to comment upon it. Therefore, this appeal has been determined on the basis of the submitted drawings numbered 0023-SA-XX-XX-DR-A-1001 Rev PO1, 1101 Rev PO1, 1002 Rev PO1, 1003 Rev PO1, 1202 Rev PO1 and 1301 Rev PO1 which were refused planning permission on 3 December 2021.

Main Issues

3. The main issues are the effect of the appeal proposal on:
 - highway safety, with particular regard to visibility for access and parking to the rear of No 2 Damson Avenue
 - the character and appearance of the street scene.

Reasons

Highway safety

4. The appellant's enclosed rear garden is situated at a right angle to a narrow pedestrian walkway serving properties on Damson Avenue and also their adjoining parking spaces beyond. Currently, the appellant's intervening boundary wall is set back from the highway and incorporates a chamfered corner at the point closest to these areas and the public highway. Despite the height of this existing enclosure, collectively these measures provide users of the walkway and these parking spaces an appropriate visibility splay along Damson Avenue towards Acre Way in the form of a narrow open landscaped

- area. It also provides an appropriate level of visibility to those areas for those who are travelling along Damson Avenue from the junction with Acre Way.
5. The appeal proposal would enclose this open landscaped area and remove the existing visibility splay. I concur with the Local Highway Authority that this particular appeal proposal would substantially reduce visibility opportunities for users of the walk way and parking space for No 2. It would also reduce the visibility to these areas for users of the public highway.
 6. There are similar arrangements elsewhere on the estate, including further along Damson Avenue. However, the reduction in visibility arising from the appeal proposal which is before me would be prejudicial to highway safety and this has implications for public safety. The existence of these other boundary enclosures do not justify or reduce the adverse effect that the appeal proposal would have. Furthermore, the adoption status of the highway and relevance of the Local Highway Authority guidance for residential developments does not reduce or justify the adverse effect which would arise.
 7. For these reasons, the appeal proposal would be harmful to highway safety, with particular regard to visibility for access and parking to the rear of No 2 Damson Avenue.
 8. Policy SP16 of the Ryedale Plan - Local Plan Strategy with Main Modifications and Additional Modifications 5 September 2013 ("the Local Plan") states that new development will be expected to contribute to a safe and well connected public realm and create public spaces which are safe to use. Policy SP20 of that plan states that new developments that will result in an unacceptable risk to safety will be resisted. Access to and movement from a site by vehicles, cycles and pedestrians must not have a detrimental impact on road safety or to the safety of pedestrians and cyclists. In view of the identified harm, the appeal proposal conflicts with both of these policies in these regards.

Character and appearance

9. The appeal site comprises a detached dwelling and associated outdoor space occupying a corner plot within a modern residential estate. The open plan frontages of the estate are largely intact with the exception of some low level boundary planting to some plots. Corner plots tend to have side gardens or are bound by landscaped areas external to those plots. Collectively, these components of the street scene contribute positively to the sense of openness and space which is characteristic of the estate.
10. In view of its open disposition, the soft landscaped area subject of this appeal visually corresponds with these attributes of the wider street scene. Moreover, it provides a reasonable degree of visual consistency with the side garden of No 1 Damson Avenue opposite and the short front gardens of Nos 3, 5 and 7 Damson Avenue. Further along Damson Avenue there are a series of gardens with high boundary enclosures which immediately bound the highway. Such treatment is evident elsewhere on the estate to varying degrees although it is particularly prominent here. As such, it is not an alien characteristic of the area.
11. The appeal proposal would completely enclose this relatively narrow strip of land which runs down the side elevation of the appellant's dwelling and extends the full depth of their existing rear garden. The appeal proposal would reflect

the existing view of a high boundary wall along the extent of this side boundary. However, it would lead to the loss of a substantial length of intervening grassed area and planting. Crucially, this landscaped strip of land is prominent in the street scene on approach in either direction along Damson Avenue and also from the vicinity of the junction with Acre Way. This currently provides an important green visual break between the hard surfaces of the surrounding built form.

12. The appeal proposal would reflect the placement of the existing boundary fencing in the vicinity of the appeal site which immediately bounds the highway. Nonetheless, the further addition of such treatment would unduly disturb the visual balance that currently exists between the open, green aspect of this particular street scene and its enclosed built form and hard surfaced public realm.
13. For these reasons, the appeal proposal would be harmful to the character and appearance of the street scene.
14. Policy SP16 of the Local Plan expects proposals to create high quality durable places which are well integrated with their surroundings. Siting and scale should respect the context, including boundaries and spaces between buildings and appropriate hard and soft landscaping features should be incorporated to enhance the setting of these spaces and where appropriate provide active and interesting public frontages. Policy SP20 of that plan states that new development will respect the character and context of the immediate locality in terms of physical features and the cumulative impact on the character of an area will also be considered. In view of the identified harm, the appeal proposal conflicts with both of these policies in these regards.

Other Matters

15. The appellant's existing rear garden area provides a reasonable level of private amenity space. At the time of my visit the area of land in question remained well maintained. Whilst its enclosure would be beneficial to the appellant in terms of increased privacy and outdoor space as well as ease of maintenance, these considerations each attract limited weight.

Conclusion

16. For the reasons given above the appeal scheme conflicts with the development plan when taken as a whole. There are no material considerations before me that outweigh this conflict. I therefore conclude that the appeal should be dismissed.

C Dillon

INSPECTOR