



Appeal Decision

Site visit made on 5 April 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 May 2022

Appeal Ref: APP/J0405/W/21/3283089

140 Sheerstock, Haddenham HP17 8EX

- 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 Claire-Lise Kessler against the decision of Buckinghamshire Council.
 - The application Ref 21/01731/APP, dated 23 April 2021, was refused by notice dated 25 August 2021.
 - The development proposed is the erection of garden fence, enclosed area to change use from amenity to residential.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the Council refused planning permission it has adopted The Vale of Aylesbury Local Plan (September 2021) (VALP). Policies referencing the Aylesbury Vale District Local Plan in the Council's decision have, so far as relevant to this appeal, been replaced by VALP Policies BE2 and BE3. These policies were referenced in the Council's reason for refusal, and they have referred to the VALP in their statement of case, on which the appellant has had the opportunity to comment.
3. The appellant has submitted a number of alternative plans with the appeal. Briefly, amongst other things, they comprise a step back of the fence at the corner and the provision of staggered gates. This is partially in response to the Council's reasons for refusal.
4. Whilst the changes, on their face, are not extensive, they do represent a noticeable departure from the scheme that the Council considered and that on which the views of third parties were sought. I have some concerns therefore that accepting the amended plans would result in some prejudice to third parties wishing to comment. Additionally, three alternative proposals have been put before me rather than one amended plan.
5. Having regard to the procedure guide¹, planning appeals should not be used to amend a scheme and any plans submitted should be those that the Council considered at the time they determined the planning application. I have not therefore taken the amended plans into account in making my decision.

¹ The Planning Inspectorate Procedural Guide – Planning Appeals – England (March 2021)

Main Issue

6. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

7. Sheerstock is a residential estate characterised by similarly designed detached and semi-detached dwellings finished in red brick and render. The appeal site is one half of a pair of semi-detached dwellings that face side on to Sheerstock. Adjoining the highway dwellings are bound by rendered walls and hedgerows, to their rear dwellings are bound by timber fences. To the rear of dwellings along the western side of Sheerstock is an area of amenity land with play park. This is accessed via a public footpath that runs along the rear and side boundary of the appeal site.
8. The appeal site comprises a strip of green space that lies adjacent the footpath, to the rear of 140 Sheerstock. Whilst the footpath is narrow where it joins Sheerstock, it opens up at the appeal site, before turning a corner towards the amenity land and play park. This area of space is currently grassed over with landscaping and contributes positively to the character and appearance of the area in that it provides a green open feel to this part of the footpath. On the opposite side of the footpath is a tall wall and fence.
9. The proposed fence would be located adjacent the footpath, enclosing the aforementioned area of green space. Given its height, length, and projection forward of the existing fence line, it would form a large, obtrusive, and incongruous feature which would have an enclosing effect on the public footpath, at odds with the prevailing green open character of this area. I have had regard to the appellants comment that the area has recently had some clearance works undertaken, however it would still have positively contributed to the area as a landscaped green.
10. Additionally, this space currently allows for people using the footpath good visibility when approaching the corner. In addition to creating a sense of enclosure, the proposed development would reduce the level of visibility afforded to pedestrians, making the footpath feel less safe. Whilst the existing area could be used as an area of concealment, it does not have the enclosed feeling that the proposed development would create, nor would it reduce the visibility at the corner.
11. I appreciate the appellant's frustration that there are examples of fences and walls adjacent to footpaths in other areas nearby, however, I do not consider that the existence of other boundary features in other areas justifies the harm I have identified.
12. I have had regard to the appellants submission that the proposal would provide benefits to the area in terms of the encroachment of vegetation on to the footpath. Whilst a fence may reduce encroachment on to the footpath, the appellant has provided details that the area is under a regular maintenance programme to clear vegetation.
13. For the above reasons, the proposed development would harm the character and appearance of the area and, as such conflict with Policies BE2 and BE3 of the VALP which seek, amongst other things, to ensure that development respects and complements the characteristics of the site and its surroundings

and the local distinctiveness and vernacular character of the locality and would not harm the amenity of residents. The appeal scheme would also conflict with paragraph 130 of the Framework that seeks good design sympathetic to local character.

Other Matters

14. The appellant asserts that the Council have historically advised that a fence could be built along the edge of the footpath. This is however an administrative matter between the appellant and the Council and would not have a bearing on my consideration of the appeal.

Conclusion

15. For the above reasons, there are no relevant material considerations, including the approach of the Framework, that would indicate a decision otherwise in accordance with the development plan. It is for this reason that the appeal should be dismissed.

Tamsin Law

INSPECTOR