



Appeal Decision

Site visit made on 10 May 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th May 2022.

Appeal Ref: APP/D4635/W/21/3283784

18-20 Hateley Drive, Wolverhampton WV4 6SF

- 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 P. Singh (SEP Properties Ltd) against the decision of City of Wolverhampton Council.
 - The application Ref 21/00936/FUL, dated 21 June 2021, was refused by notice dated 25 August 2021.
 - The development is described as “retrospective planning application for external fencing to yard.”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application form states that works were completed to erect the fence in early June 2021, prior to the submission of the application. At my site visit I saw that a fence has been constructed on site. However, as I cannot be certain that what has been built is fully in accordance with the plans before me, I have assessed the development as shown on the plans.
3. I understand that an enforcement notice was issued by the Council on 25 August 2021 to “remove the unauthorised wooden enclosure” on the appeal site.
4. The site has an existing planning consent (21/00077/FUL), the approved details of which include the erection of new fencing to a bin store area. The location and positioning of the approved fencing would be set further back from the highway than the appeal development.

Main Issue

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

Reasons

6. The site of the fencing is located to the side of 18-20 Hateley Drive, fronting Bevan Avenue. The appeal site is a retail premises situated at the end of a small shopping parade. The surrounding area is predominately residential comprising semi-detached properties set within established building lines.
7. The properties along Bevan Avenue are set back from the road and some have modest, enclosed front gardens and driveways. The boundary treatments are

- predominantly low brick walls with some examples of low-level timber fencing and hedges to side boundaries of properties. The low walls, fences and hedges convey a sense of space, help to soften the urban grain, and contributes to the prevailing open character of the area. There are also areas of open lawned frontages with no boundary treatments opposite the site.
8. The area in front of the shopping parade along Hateley Drive and adjacent to the appeal site consists of hard surfaced areas and a grassed traffic island, creating a sense of openness.
 9. The height, prominent position and detailing of the fencing means that it is a stark, enclosing and discordant feature that is out of keeping with the prevailing open character of the area. Consequently, it has a harmful impact on the street-scene. The height of the fence means that it is a dominant structure in a prominent corner location, noticeably taller than the boundary treatments in the vicinity of the appeal site.
 10. Furthermore, the position of the fence, abutting the footpath, presents an enclosed frontage to pedestrians, which contrasts markedly with the sense of space that characterises the frontages of nearby dwellings. Consequently, the fence is a dominant and incongruous feature that is harmful to the character and appearance of the area.
 11. Although the fence is made from wood, a natural material, its current appearance as constructed is of a bright colour, creating a stark feature. I acknowledge that it would weather over time and that a condition could be imposed were I to allow the appeal requiring the wood to be painted or treated, and that this would improve the appearance of the fence. However, it would not mitigate the height and positioning of the fence which is obtrusive within the street-scene.
 12. I have taken account of the other timber fencing in the area referred to by the appellant (to the side of No 10 and 12 Bevan Avenue). However, the appearance and context of these timber fences differ to the development before me, as they are set back from the road behind grassed open areas, in less prominent locations than the appeal site. In addition, although there is evidence of timber fencing to side boundaries in the wider area, these are low-level and not as high as the development. I therefore attach limited weight to these other examples, none of which are directly comparable to the development before me.
 13. The appellant considers that not all of the fence requires planning permission and that some of it could remain in situ without the need to paint it or treat it to alter its colour. Be that as it may, as previously stated, I am assessing the development on the basis of the submitted plans forming part of the application submitted to the Council. Therefore, whether or not the fence requires planning permission is not a matter for me to consider.
 14. The existing planning consent (21/00077/FUL) remains extant and therefore represents a fallback option for the appellant. There is no evidence before me to demonstrate that the extant consent could not be implemented or would be economically unviable. However, for the reasons previously stated, the fallback option would be less harmful than the development before me.

15. For the reasons given above, the development fails to accord with saved policies D4, D6, D7 and D9 of the Wolverhampton Unitary Development Plan 2001 – 2011 (adopted 2006), and Policy ENV3 of the Black Country Core Strategy (adopted 2011). In combination, these policies seek to ensure that development applies principles of good design which protects local distinctiveness and the character and appearance of the area.

Other Matters

16. The appellant claims that fencing has been erected around the service yard in order to protect the operators of the retail store, and their staff, against crime and anti-social behaviour. However, there is no evidence that these matters could only be addressed by the fencing comprising the development. I consider that an alternative form of protection against crime and anti-social behaviour could be implemented.
17. The development is not sustainable as it conflicts with the development plan for the above reasons.
18. The appellant refers to alternative metal-based fencing products, such as Palisade or Expamet fencing, or temporary security Heras fencing. However, the development before me is for wooden fencing. I have therefore determined the appeal on that basis.

Conclusion

19. The development conflicts with the development plan as a whole, and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

Helen Smith

INSPECTOR