



Appeal Decision

Site visit made on 11 October 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2022

Appeal Ref: APP/C4615/D/22/3301393

96 Firth Park Crescent, Halesowen B62 9PN

- 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 Jack Gadd against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P21/2221, dated 8 December 2021, was refused by notice dated 28 April 2022.
 - The development proposed is described as “retrospective application for the erection of fencing on the boundary of the property.”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The fencing that is the subject of this appeal has already been constructed. I have dealt with the appeal on that basis.

Main Issues

3. The main issues are the effect of the fencing upon (i) the character and appearance, and (ii) highway and pedestrian safety.

Reasons

Character and Appearance

4. The site of the fencing is located to the side of 96 Firth Park Crescent (No 96), fronting an access road and facing towards Narrow Lane. The appeal site forms the boundary to the corner plot of No 96. The surrounding area is predominantly residential consisting of properties set within established building lines.
5. The properties are generally set back from the road and have modest enclosed front gardens and driveways. The front boundary treatments generally comprise low brick walls, some with vegetation above, or are formed of mature hedging. There are some examples of low-level timber fencing on front boundaries and taller fencing on side boundaries. Nevertheless, the generally low-level boundary treatments and mature hedges to the property boundaries convey a sense of space and help to soften the urban grain. There is also an area of open grassland directly opposite the appeal site, positioned in-between the access road and Narrow Lane. This area of grassland contributes to the prevailing open character of the area.

6. The corner position, detailing and height of the fencing means that it is a dominant structure in a prominent location, noticeably taller than the boundary treatments in the vicinity of the appeal site. It forms an unsympathetic and discordant feature that is out of keeping with the prevailing open character of the area. It therefore has a harmful impact on the street-scene.
7. Whilst the fencing is lower than the height of the backdrop of conifer trees, these existing trees create a softer appearance compared to the harsh fence panels.
8. Furthermore, the position of the fencing, abutting the footpath, presents an enclosed frontage to pedestrians. Consequently, the fencing is an incongruous feature that is harmful to the character and appearance of the area.
9. Although the fencing is made from wood, a natural material, its current appearance as constructed is of a bright colour, creating a stark feature. Whilst it would weather over time and could be painted or treated, which might improve the appearance of the fencing. Nonetheless, this would not mitigate the height and positioning of the fencing which is obtrusive within the street-scene.
10. I have taken account of the other timber fencing in the area referred to by the appellant. However, none are readily visible within the immediate vicinity of the appeal site, and I have not been provided with information relating to their planning history. Nevertheless, whatever the background, their existence is not an appropriate justification for permitting the development here. I have therefore dealt with this appeal on its own merits.
11. For the reasons given above, the development fails to accord with policies ENV2 and ENV3 of the Black Country Core Strategy (2011) (Core Strategy) and policies L1, S1 and S6 of the Dudley Borough Development Strategy (2017) (Development Strategy). 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. In addition, the development also conflicts with the design objectives of the National Planning Policy Framework.

Highway and Pedestrian Safety

12. As this section of fencing is set back from the junction of Firth Drive and is in line with the existing boundary of No 96, I do not consider it to obscure visibility for vehicles or pedestrians leaving Firth Drive. The access road is a one-way street and Firth Drive is a small cul-de-sac comprising a handful of dwellings. These roads are therefore unlikely to experience high traffic volumes.
13. Furthermore, the fencing is set back far enough for it not to obscure visibility from the junction of Firth Park Crescent or the driveway of No 96.
14. I therefore conclude that the fencing does not harm highway and pedestrian safety. Consequently, for this main issue, there is no conflict with policies ENV3 and TRAN2 of the Core Strategy (2011), and policies L1 and S17 of the Development Strategy (2017). Collectively these policies, amongst other things, seek to ensure developments do not have a detrimental effect upon highway safety.

15. The Council's decision notice referred to Policy S6 of the Development Strategy (2017). However, I do not consider this policy to be relevant to this main issue as it is not specifically related to highway safety.

Other Matters

16. I note the personal circumstances of the appellant's need for the development, and I have sympathy for their situation. The proposed fencing would enclose their garden and make this a safe place for their pet to play in a secure garden. The proposed fencing would provide security and help to reduce litter in their garden from 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. I therefore attach limited weight to this matter.
17. I acknowledge that the conifers would require regular maintenance. However, this does not weigh in favour of the development.
18. I have noted the points made by the appellant about the Council's handling of the case. However, these points have not affected my decision, which is based on the planning merits of the development.
19. Whilst I note the letter of support from a local councillor, these considerations would not outweigh the harm to the character and appearance of the area identified above.
20. There were no neighbour objections to the development. However, given the permanent nature of the development, the effects need to be considered long-term. Therefore, the lack of objections from neighbours is a neutral matter that does not weigh in favour of the development.

Conclusion

21. Whilst I find no harm to highway safety this does not outweigh the harm to the character and appearance of the area and consequent conflict with development plan policies.
22. 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 is therefore dismissed.

Helen Smith

INSPECTOR