



Appeal Decisions

Site visit made on 11 October 2022

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2022

Appeal A Ref: APP/N1920/D/22/3292083

48 SanTERS Lane, Potters Bar EN6 2BX

- 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 C Stoenica & Mrs S Marcu against the decision of Hertsmere Borough Council.
 - The application Ref 21/1510/HSE, dated 20 July 2021, was refused by notice dated 11 January 2022.
 - The development proposed is the erection of new boundary treatment (brick wall with brick piers and railings and timber fencing between the piers) to SanTERS Lane and Wellesley Crescent frontages and within the site (fencing with trellis above).
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Appeal B Ref: APP/N1920/D/22/3303449

48 SanTERS Lane, Potters Bar, Hertfordshire EN6 2BX

- 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 C Stoenica and Mrs S Marcu against the decision of Hertsmere Borough Council.
 - The application Ref 22/0674/HSE, dated 14 April 2022, was refused by notice dated 22 June 2022.
 - The development proposed is the retention of new boundary treatment (brick wall with brick piers and railings, vehicular and pedestrian entrances on the SanTERS Lane frontage; retention of new boundary treatment (brick wall with brick piers) to the Wellesley Crescent frontage with timber trellis; retention of gates on Wellesley Crescent frontage with adaptation so can only be used as a pedestrian access. Retention of timber fence and trellis above to the side of the dwelling separating front and rear gardens. Additional planting behind boundary walls on both street frontages.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Applications for costs

3. An application for costs was made by Mr C Stoenica and Mrs S Marcu against Hertsmere Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

4. I observed on my site visit that the development detailed within Appeal A has been constructed. Appeal B concerns the same development however includes prospective elements, more specifically the replacement of the close boarded fence panels with trellising, permanent closure of one side of the double gates located within the Wellesley Crescent frontage together with additional landscaping. I have determined the appeal on this basis and have had due regard to the prospective mitigation measures outlined within Appeal B.

Main Issues

5. The main issues common to both Appeal A and Appeal B are;
 - the effect of the development on the character and appearance of the area;
 - the effect of the development on highway safety, with particular regard to pedestrian mobility.

Reasons

Character and Appearance

6. The appeal site occupies a prominent corner location and comprises a semi-detached chalet bungalow. The wider setting is predominantly characterised by single storey dwellings with open fronted gardens and paved driveways. The sense of uniformity and openness resulting from the position of properties within their plots, set back from the highway and abundance of soft landscaping positively contributes to the character and appearance of the area.
7. Despite the inclusion of railings along the front boundary, by virtue of the overall height, scale, materials and proximity to the road, the brick wall and gated entrances form a solid enclosure around the appeal property which conflicts with the otherwise softer, more open development pattern. Accordingly, the development subject to Appeal A and Appeal B whilst defining public and private space, reads as a dominant and intrusive form of development, further exacerbated by the prominent location of the appeal property.
8. There is a mix of boundary treatments within the area, however those within close proximity of the appeal site generally comprise low lying, light weight structures which allow outlook onto softly landscaped front gardens. Mention is made by the appellants to a number of varying boundary treatments along SanTERS Lane and whilst acknowledging the variation, they are not located within the immediate context of the site and therefore do not form part of the character and appearance of the area in which the appeal development is appreciated. I have therefore given these examples limited weight in my considerations.
9. Neighbouring properties are typically served by a single means of access located within the site frontage. Common to Appeal A and Appeal B is the retention of the double side gates and creation of a new crossover off SanTERS Lane, complete with an electric sliding gate. Whilst acknowledging the use of matching timber and restricted opening of the double side gate as specified within Appeal B, the appearance of this is nonetheless characteristic of a vehicular entrance. Therefore, notwithstanding the access benefits, given the

prevailing pattern of development, I find that the provision of 2 access points is discordant.

10. I am mindful of the appellants efforts to reduce the impact of the development through the installation of trellis as detailed within Appeal B and also acknowledge that additional landscaping could be secured by condition. Whilst the trellising would be less dense and softened to some extent by the additional planting, overall, the boundary would still be a dominant feature and would therefore read as an incongruous addition to the street scene. As such, I am not convinced that the additional measures outlined within Appeal B would mitigate the harm identified.
11. The appellants evidence indicates that there was originally a close boarded fence of similar height erected along the side boundary consistent with other corner plots. Nevertheless, I am also told that this was set back some 4 metres from the back edge of the pavement. Although darkly stained, by virtue of its position, the previous fence was not obtrusive. Furthermore, the low-lying front hedgerow depicted in the photographs, whilst of similar height to the front boundary provided a softer means of enclosure, in keeping with the verdant character of the area. This does therefore not compare to the appeal proposal.
12. Whilst it may be the case that the appellants could erect a wall, fence or gate without the benefit of planning permission, by virtue of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 2015, any means of enclosure erected in accordance with the aforementioned permitted development rights (PD) would be limited to a height of one metre. I am advised that the maximum height of the appeal development is 1.8 metres. Therefore, while a solid structure could be erected under PD, this would be considerably less than the overall height of the current boundary and would be more in keeping with the low-lying boundary treatments prevalent in the area. I am therefore not persuaded that the development would be justified on this basis.
13. In concluding this matter, I find that the development outlined within Appeal A and Appeal B would adversely affect the character and appearance of the area. The development therefore is in conflict with Policies CS22 and SP1 of the Hertsmere Local Plan Development Plan Document Core Strategy 2013 (the Strategy) together with Policy SADM30 of the Hertsmere Local Plan Site Allocation and Development Management Policies Plan 2016 (SADM). Collectively, and amongst other aspects, these policies seek to ensure that development proposals recognise and complement the particular local character of an area, positively contributing to the built environment. I also find the proposed development to be inconsistent with the Hertsmere Planning and Design Guide Supplementary Planning Document 2013 (SPD) which seeks to ensure that the design of new boundary treatments complement the existing development pattern. It would also fail to comply with the design objectives of the National Planning Policy Framework (the Framework). As Policy CS25 of the Strategy relates to accessibility and parking, it is not determinative to this main issue.

Highway and Pedestrian Safety

14. The appellants evidence indicates that the cross-over off SanTERS Lane and closure of the original access off Wellesley Crescent was consented and completed by the Council in accordance with the permitted licence. Similar to

neighbouring properties, including the adjoining dwelling, vehicles exiting the site via the new cross over are required to cross the pavement and drive out onto the Lane. Notwithstanding the proximity of the new crossover to the nearby junction, the footway is straight and relatively wide. As such, I am satisfied that motorists and pedestrians would be able to anticipate each other's movements and stop as appropriate.

15. Accordingly, I find that the development is not detrimental to highway safety, with particular regard to pedestrian mobility. The development therefore accords with Policies CS22, CS25 and SP1 of the Strategy together with Policies SADM30 and SADM40 of the SADM. The development is also consistent with the SPD and Parking Standards Supplementary Planning Document 2014 which collectively, and amongst other aspects seek to ensure no adverse impact on highway safety, including the safety of pedestrians. It would also comply with the Framework's highway safety objectives.

Other Matters

16. The appellants contend that the Council's decision notice erroneously refers to the original plan set despite amended plans having been submitted. Indeed, this is the subject of a separate costs application. Notwithstanding the above and the appellants comments on this matter, in considering both Appeal A and Appeal B, I have had sight of both plan sets and therefore do not consider that consideration of the planning merits has been prejudiced.
17. In entering into initial discussions with the applicant and allowing a set of amended plans to be submitted, I am satisfied that the Council adhered to its duty to proactively engage as outlined within Paragraph 120 of the Framework). The appellant further suggests that the Council introduced new issues beyond those discussed in order to strengthen the refusal. Nevertheless, based upon the evidence before me there is no doubt that the appellant was made aware of the concerns regarding character and appearance. Furthermore, whilst the highway safety concerns may have not been communicated directly, the Highway Authority's objection is clearly articulated within their consultation response which I understand was published on the Council's website. Whilst I appreciate that the decision would have been a disappointment to the appellant, the evidence does not demonstrate a failure to engage. In any case however, this has no bearing on my considerations of the planning merits of the proposal.
18. In referring to the development as being retrospective, the appellant questions whether the Council fully considered the prospective elements detailed on the amended plans. Given the considerations detailed within the delegated report, I find no evidence to suggest that the Council did not fully consider the proposal, specifically the trellis and additional planting despite the terminology used.
19. In determining the appeal, I am mindful of the crime prevention and community safety principles outlined within Policy CS22 of the Strategy together with the appellants desire for both privacy and security. That said, I do not consider that the above sufficiently outweighs the harm identified and therefore afford this limited weight in my considerations.
20. In respect of Appeal B, the Council's reasons allege conflict with Policies CS1 and CS2 of the Strategy which relate to the supply and location of new homes respectively. My attention however, has not been drawn to any wording in

those policies which relate to the main issues. Therefore, these policies have not been determinative in my decision.

Conclusion

21. For the reasons outlined above, having regard to the development plan as a whole and all other relevant material considerations, including the Framework, the appeal is dismissed.

H Wilkinson

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/N1920/D/22/3292083	Mr C Stoenica & Mrs S Marcu
Appeal B	APP/N1920/D/22/3303449	Mr C Stoenica and Mrs S Marcu