



Appeal Decision

Site visit made on 18 October 2022

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 18 November 2022

Appeal Ref: APP/V2635/W/22/3298033

7 and 8 Rowan Close, Fen Road, Watlington, Kings Lynn PE33 0UG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr S Wadsley against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 2021/02350/F, dated 7 December 2021, was refused by notice dated 28 March 2022.
 - The application sought planning permission for the substitution of house types for plots 7 & 8 including change of materials and positioning (Ref: 06/00145/FM) at 7 & 8 Rowan Close, Fen Road, Watlington, Norfolk without complying with conditions attached to planning permission Ref 20/01165/F, dated 23 December 2020.
 - The conditions in dispute are:
 - No. 2 which states that: *"The development hereby permitted shall be carried out in accordance with the following approved plans:*
 - *09.2487.23 B*
 - *09.2487.24 A*
 - *09.2487.25 A*
 - *09.2487.26 C*
 - *09.2487.27 C*
 - *09/8487"*
 - No.5 which states that: *"Prior to the first occupation of the dwellings hereby approved, the 1.8m high timber close boarded fencing and 1.8m high brick wall shown on drawing No. 09.2487.23 B shall be constructed in accordance with the approved details. The boundary treatments shall be retained in that position thereafter."*
 - The reasons given for the conditions are:
 - No.2: *"For the avoidance of doubt and in the interests of proper planning."*
 - No.5: *"To ensure that the development is compatible with the amenities of the locality in accordance with the NPPF."*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my visit the walls flanking the footpath, shown on proposed drawing No.09.2478.32 C, were substantially complete. The surface of the footpath remained unfinished. The appeal scheme is therefore partly retrospective.

Main Issue

3. The main issue is the effect of the amended design on the character and appearance of the area, including whether it would provide an adequate standard of security and safety.

Reasons

4. The appeal relates to a pedestrian footpath which runs between plots 7 and 8 on Rowan Close which forms part of a new residential estate. The footpath connects to an existing public open space at the rear of the site and beyond this is the centre of the village. Close to the start of the footpath on Rowan Close is a medical centre. The approved scheme shows a surfaced footpath with a margin of grass and several trees to either side, enclosed by high brick walls, forming a wide footpath corridor between the two houses. The footpath will not be adopted by the Local Highway Authority (LHA) and a condition is attached to the approved scheme to ensure that the footpath would be retained and maintained.
5. Under the appeal scheme, the flanking walls have been constructed to their full height, but the footpath has been substantially reduced in its overall width from 5.6m to 2.185m. This has resulted in the removal of the grass margins and trees, together with a slight reduction in the width of the hard-surfaced footpath itself. As a result, the footpath link has become a much narrower corridor with the high walls creating a feeling of overbearing and tight enclosure. The loss of the green landscaping has made the footpath devoid of any interest or appeal and compounded this oppressive environment. The reduction in width has also affected the sight lines meaning that there is no visual connectivity from one end of the route to the other. The approved design of the footpath was a wide, attractive footway leading along a well frequented route, and this reflected the open, verdant character of the area and the quality of the estate's overall design. However, the amended design has removed all the design quality and does not protect or enhance the character of the area or encourage people to use it.
6. Secured by Design, Homes (2019), referenced in the National Model Design Code (2021), provides guidance on designing segregated footpaths, advising that they should be as straight as possible, wide, well lit, devoid of hiding places, overlooked by surrounding buildings and activities, and well maintained to enable natural surveillance along the path and its borders (paragraph 8.10). At paragraph 8.12 it sets out that footpaths should be at least 3 metres wide to allow people to pass without infringing on personal space and to accommodate wheelchairs.
7. The constructed footpath is significantly below the 3 metres minimum recommended. The appellant maintains that only the hard-surfaced footway is regarded as the 'footpath' and therefore its width has only been reduced slightly from that approved. However, in my view, the footpath shown on the approved drawing is the totality of the hard-surfaced pathway together with the flanking grass and trees to either side and the walls. It is also clear from Condition 8 of the permission, relating to footpath maintenance, that the 'footpath' is more than the hard-surfaced pathway, hence the need to provide a written scheme for its maintenance.

8. Whilst the length of the footpath, the angle of the route, and the number of windows looking towards it remains unchanged compared to the approved scheme, the reduced width combined with the high walls has impacted substantially on visibility along its length and reduced the ability of surrounding residents to see into the footpath corridor. Despite the angle in the approved route, I consider that it would be possible to see from one end to the other across the flanking verges. However, with the considerable narrowing of this corridor, views through to the end have been completely severed, and the closing in of the tall walls have made the experience of walking along it quite hostile and unpleasant. Aware that this is a popular route which will be used by children accessing the play area and those visiting the medical centre, it is important that the footpath feels safe, that it is legible, and that people feel comfortable using it. Based on what I have seen, the footpath does not feel welcoming, it is a cramped and unpleasant route and could make people feel unsafe and increase the opportunity for crime and antisocial behaviour.
9. The appellant maintains that mature trees along the footpath may provide obstructed site lines, creating places for people to hide, obscure lighting and increase the opportunity for crime and disorder. However, there is no adequate evidence to substantiate this, and I consider that a wide, attractive, well maintained footpath corridor is far more likely to achieve an adequate standard of safety and security. I recognise that a narrow footpath does not necessarily result in an increase in crime and disorder, but I have found that the appeal scheme is a narrow, tightly enclosed, sterile passage with no sight lines through to the end.
10. None of the footpaths identified by the appellant are directly comparable with the appeal scheme before me. Whilst some have high, continuous forms of enclosure and narrow widths and some lack passive surveillance, most have clear sight lines through to the end, giving them legibility as well as creating a feeling of security. None felt especially hostile in the way that the appeal development does, and the hedges and planting along some of the routes adds to the attractive quality of the environment. At the time of my visit all these footpaths were clear of obstruction and hedges had been trimmed. However, in any event a lack of maintenance would not be a reason to remove planting on the appeal development and any existing footpaths which might be considered poor design would not justify perpetuating this failing. I have also viewed the new footpath immediately to the north of the appeal site. Whilst this may be a narrow, tarmacked path it is just a walkway across an open, grassed area, without enclosure, and it is in no way comparable to the appeal footpath before me.
11. The planting of trees in the gardens of the adjoining properties might enable them to be well looked-after and would in time be visible over the high walls but would not be an acceptable substitute for direct planting along the route, the maintenance of which is ensured by Condition 8.
12. The changes to the footpath design have had a significant, adverse impact on the design of the overall development to the detriment of the visual appearance of the area, the safety of users of the footpath and the feeling of security. Such a retrograde step in the quality of the approved scheme between permission and completion as a result of changes to the approved scheme is warned against in paragraph 135 of the Framework.

13. The amended design has had a harmful effect on the character and appearance of the area and does not provide an adequate standard of security and safety. Consequently, it conflicts with Policy DM15 of the Site Allocations and Development Management Policies Plan (2016) and Policy CS11 of the King's Lynn and West Norfolk Local Development Framework Core Strategy (2011) and Secured by Design (Homes) which require that development improves accessibility for all, demonstrates safe access and ensures that development protects and enhances the amenity of the wider environment. It would also conflict with Paragraph 92 b) of the National Planning Policy Framework (2021) (the Framework) which states that decisions should aim to achieve places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

Other Matters

14. The appellant contends that in the context of this assessment, the Council's use of the term 'streetscene' is inappropriate in describing this location. However, in my view the term relates to the wider context of buildings and the layout of streets and routes in that immediate area. I do not therefore see any issue in using this term.
15. The LHA commented that the footpath link used a shared private drive and could not be adopted or be accessible by the general public. However, Condition 8 secures public access and maintenance in perpetuity to overcome this matter. The LHA comments in relation to this appeal are noted and whilst they would be unlikely to object to this appeal proposal given that the footpath will not be adopted, their lack of objection would not infer that the development would be acceptable in all respects. Likewise, the absence of comments from the Norfolk Constabulary similarly does not mean that the development is acceptable.

Conclusion

16. For the reasons given above and having regard to the development plan as a whole, I conclude that the appeal should be dismissed.

G Bayliss

INSPECTOR