



Appeal Decision

Site visit made on 7 November 2022

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 29th November 2022

Appeal Ref: APP/W1905/D/22/3306375

23 Hawthorne Avenue, Cheshunt, EN7 5BY

- 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 Alpay Hassan against the decision of Broxbourne Borough Council.
 - The application Ref 07/22/0486/HF, dated 10 May 2022, was refused by notice dated 26 July 2022.
 - The development proposed is erection of front boundary wall and screening and sliding metal gate.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:-
 - The effect of the development upon the character and appearance of the site and the surrounding area, and: -
 - Whether safe and suitable access to the site can be achieved for all users.

Reasons

Character and appearance

3. The appeal site is an end of terrace two storey house set back behind a modest front garden and fronting onto Hawthorne Avenue. The street scene is characterised by dwellings of similar style and appearance set back behind modest gardens. Hawthorne Avenue has footways on both sides, set back behind narrow verges containing occasional street trees. The continuity of these verges is broken at many locations by vehicular crossings of the footway, which provide access to parking in front gardens; or widening of the carriageway, which provides opportunities for on-street parking whilst reducing obstruction to traffic flow along the street.
4. The street boundaries to the dwellings are generally low or open, often providing access for parking. Boundaries between properties are also generally low, although I observed examples on Hawthorne Avenue, and elsewhere on surrounding streets that were higher. Higher boundaries between properties often incorporate hedges, giving them a soft, natural appearance. Various materials are used to form the boundaries, including timber fencing, brick walls and planting.

5. Whilst the carriageway of the street is relatively narrow, the overall width of the highway includes the footways and verges. Together, the low frontage boundaries and width of the highway provides a feeling of spaciousness. This spaciousness, together with the general uniformity of built form make a major contribution to the character of the area.
6. Flank boundaries, where these face the street are often higher than the general height of highway boundary. These are frequently formed of timber fences and/or planting and are associated with road junctions, forming a secondary characteristic of the surrounding area.
7. The proposal would replace the existing front and side walls around the front garden of 23 Hawthorne Avenue (No 23) with low walls interspersed with taller pillars approximately 1.9 metres high. The gaps between the pillars would be infilled with timber panels and a metal gate, to a height of approximately 1.65 metres. The line of the gate would be close to the back edge of the footway. The front garden of No 23 would be totally enclosed by the new boundary structures.
8. This enclosure, by a structure that would have a substantial appearance, constituted of brick, metal and timber, would be highly conspicuous within the street scene. By virtue of its height, materials and position at the side of the footway it would be an incongruous, enclosing feature, undermining the general appearance of spaciousness and conformity within the street. In this instance that incongruity would constitute harm.
9. Whilst the timber panels and gate would have slats, rather than being a solid face, this would do little to alleviate the impression of solidity.
10. My attention has been brought by the appellant to various other properties within Hawthorne Avenue and the wider area which he argues provide examples to justify his choice of design.
11. In many cases these are flank boundaries to residential properties. These provide privacy to the private amenity space of the dwelling. As identified above, these are usually associated with junctions and are a common feature of residential areas similar to those around Hawthorne Avenue. No 23 is not associated with a junction and so is not contextually similar to such locations.
12. Dividing structures and planting also appear between the front properties, and many are of a similar height, or higher, than those proposed. These boundaries do not, however, front the street and so do not have such a dominant, enclosing effect as the proposed development.
13. My attention has, however, been specifically drawn to the boundary of 7A Hawthorne Avenue (No 7A). Whilst situated on the corner of a junction and having the higher flank boundary as identified above, the boundary to the front of the property is also higher, formed of a hedge surmounting a brick wall. Furthermore the vehicular crossing is closed off by a metal gate.
14. I have no planning history of No 7A before me, but it does appear atypical of the more general character of the immediate area around the site that I have identified above.
15. I have determined this case on its own merits and the boundary of No 7A appears to be anomalous. Should such development become more common in

the area the character that I have identified above would be altered. No 7A does not, therefore, set an overall precedent to justify the appeal proposal.

16. I therefore conclude that the development would result in material harm to the character and appearance of the site and the surrounding area. The proposal would therefore be contrary to the provisions of Policy DSC1 of the Broxbourne Local Plan (2020) (the Local Plan) which, amongst other things, requires that development proposals should, wherever possible, enhance local character and distinctiveness.
17. For similar reasons the proposal would be contrary to the provisions of the National Planning Policy Framework (2021) (the Framework), in as much as this seeks to ensure that development creates well-designed places that are sympathetic to local character and history, including the surrounding built environment. The Framework further advises that development that is not well designed should be refused, especially where it fails to reflect local design policies, taking into account any local design guidance and supplementary planning documents. The aims of both Policy DSC1 of the Local Plan and the Framework are in close accordance.
18. The Council refers in the Officers Report and the decision notice to its Borough-Wide Supplementary Planning Guidance (August 2004, updated 2013). This document sets out a range of high-level principles with the aim of achieving good design for development within the Borough of Broxbourne, so as to create or enhance places that work well and look well; and value and protect local character and distinctiveness to strengthen local community and cultural identity. The proposed development would, therefore, undermine these aims.

Access

19. I note that the Local Highway Authority (LHA) has advised that pedestrian visibility splays be provided to either side of the proposed vehicle crossing of the footway. On the plans before me, notwithstanding the width of the drive, visibility of pedestrians on the footway would be obstructed at the necessary height for the driver of an emerging vehicle to observe a small child.
20. Whilst most pedestrians would be aware of vehicular accesses along the street, and alerted by movement or noise from manoeuvring vehicles, vulnerable groups, such as children or those with a hearing or visual impairment may not be so aware of risks from an egressing vehicle.
21. The proposal shows no splays to provide intervisibility between drivers emerging from the proposed crossover and those approaching on the carriageway. However, given the existing use of the vehicular access and the setback provided by the verge and footway there is little reason before me to suggest that the proposals would have any increase in risk in the interaction between vehicles using the street.
22. The LHA have raised concerns about the proximity of the gates to the carriageway and that a vehicle waiting to enter the site would wait on carriageway or across the footway verge whilst the gates opened.
23. During my site visit I observed that flows on the street, which provides access to the wider residential area, but is not a through route, were low. There is no evidence before me to demonstrate that speeds on Hawthorne Avenue are unacceptably high for a residential street.

24. A vehicle waiting on the carriageway while the gates were opened would form an obstruction to free flow. However, given the nature of the street this is likely to result in delay, rather than presenting a hazard to highway users. Given the levels of flow along Hawthorne Way, and its position within the route network, the effect of such delay on the strategic network would not be significant.
25. Should the vehicle begin to pull off the carriageway and await opening of the gate it would obstruct the footway, with delay to pedestrians or potentially to force pedestrians into the carriageway to pass it. Given the nature of the area such pedestrians would be likely to include vulnerable groups, such as children, the elderly, or those with a disability.
26. The proposal would therefore result in an increased risk of accident, and therefore injury to pedestrians using the footway. In this case, given the residential nature of the area around the appeal site, such increased risk would constitute material harm to the safety of users of the public highway.
27. I note that the appellant has proposed the use of a key fob, or similar control, to operate the gates remotely. However, such methods are not infallible and would still have potential to result in a degree of obstruction to the footway. Nor would such a proposal address the issue of lack of pedestrian visibility splays.
28. Bringing these matters together, I find that the proposal would not result in a significant increase in risk of accident between vehicles. However, whilst driver behaviour would be likely to take into consideration the overall characteristics of the area, this is less likely to be the case with vulnerable pedestrian groups. As a result the proposal would result in a significant additional risk of accident between emerging vehicles and pedestrians in regard to the visibility provision at the proposed access and between vehicles and pedestrians diverted onto the live carriageway.
29. There is no evidence before me to demonstrate that amending the front garden layout and the works could achieve the required minimum visibility whilst providing a satisfactory parking and manoeuvring layout and so I do not consider that these matters could reasonably be covered by planning conditions.
30. I conclude that the proposal does not demonstrate that safe and suitable access to the site can be achieved for all users. It would therefore be contrary to the aims of Policy TM2 of the Local Plan which, amongst other things, requires that development proposals ensure that the safety of all movement corridor users is not compromised.
31. For similar reasons the proposal would be contrary to the provisions of the Framework, in so far as this seeks to ensure that development creates places that are safe and which minimise the scope for conflicts between pedestrians and vehicles. The Framework further advises that development should be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. I find that the Aims of Policy TM2 of the Local Plan accord closely with those of the Framework.

Conclusion

32. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal fails.

I A Dyer

INSPECTOR