
Appeal Decision

Site visit made on 28 November 2022 by T Bennett BA(Hons) MSc

Decision by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2022

Appeal Ref: APP/K2420/W/22/3304167

Land north of Lindley Wood, Fenn Lanes, Nuneaton, CV13 6BJ, 436194, 297053

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Shaan Chaudry against Hinckley and Bosworth Borough Council.
 - The application Ref 22/00078/FUL is dated 27 January 2022.
 - The development proposed is the construction of entrance gates and wall.
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Decision

1. The appeal is dismissed and planning permission for the construction of entrance gates and wall is refused.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The appeal follows the Council's failure to determine the application within the prescribed period. The submitted documents by the appellant show that the development was subsequently discussed at Planning Committee where the Planning Officer recommended approval. However, the Planning Committee resolved that the application should be refused. When an appeal against non-determination is made jurisdiction to decide the application is effectively taken away from the Council. Therefore, I have treated it as the decision the Council would have made, had it been empowered to do so. The substance of the Council's statement has informed the main issue of the appeal.
4. On my site visit, I observed that the development was under partial construction and differed from the submitted plans. The main difference was that the wall appeared taller and contained piers not shown on the submitted elevation drawing. Notwithstanding this, for the avoidance of doubt, I have determined this appeal based on the submitted drawings and have referred to the wall in the future tense on the basis of how it would appear if constructed in accordance with those plans.

Main Issue

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

Reasons for the Recommendation

6. The appeal site is located approximately 380 metres off Fenn Lanes accessed via an access track. This track also serves other dwellings and buildings located some distance beyond mature woodland which is immediately south of the appeal site. The site is open and rural in character, with the track bordered by a mixture of trees, hedging and post and wire fencing with open agricultural fields either side of the track.
7. The proposal, once completed, would see the introduction of a substantial, solid feature which given its design, brick material and scale would appear incongruous, at odds with the open rural setting and soft verdant landscape of the woodland and fields. With its elaborate brick detailing and solid gates the wall would have a domesticated and urban appearance. This would contrast unfavourably with the more inconspicuous low-level post and wire fencing and modest metal agricultural gates that are visible in the locality and are more typical of the agricultural and rural setting, having a low-key and open character.
8. The proposal is made even more prominent as the wall would not be physically attached to any built form nor is any built form readily visible from the site and therefore it would appear isolated, exacerbating the incongruous nature of the development within the open countryside setting.
9. The appellant has drawn my attention to other examples of boundary treatment and gates in the area. However, those examples are sited directly adjacent to Fenn Lanes, as opposed to the appeal site which is some distance along a rural track. Moreover, they are viewed in a different context and are seen alongside either the residential or agricultural buildings that they are associated with and not in an isolated setting in the open countryside. These examples do not therefore justify the development which I have found, on its own merits, would be harmful to the character and appearance of the area.
10. Given the reasons above, the proposal would cause harm to the character and appearance of the area. It would therefore be contrary to Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD (2016). Amongst other matters, these broadly require proposals to complement or enhance the character of the surrounding area and protect the open landscape character of the countryside.

Other Matters

11. I recognise that the planning officer recommended that the application be approved. However, planning committees are not bound by the advice of their officers if they have a different view on the planning merits of a proposal. For the reasons given I find that the position of the committee was soundly based in this instance.
12. I note concerns from interested parties about potential difficulty in opening the gates to access properties further along the track. However, that is effectively

a private matter relating to rights of access which is not material to my decision.

Conclusion and Recommendation

13. I have found that the proposal would harm the character and appearance of the area. As such it would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given above, I recommend that the appeal should be dismissed and planning permission refused.

T Bennett

APPEAL PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall dismiss the appeal.

Chris Preston

INSPECTOR