



Appeal Decision

Site visit made on 22 November 2022

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2022

Appeal Ref: APP/Y3940/C/22/3297279

Land at 42 Antrobus Road, Amesbury, Salisbury, Wiltshire SP4 7NF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Ian Woodford against an enforcement notice issued by Wiltshire Council.
 - The enforcement notice was issued on 1 April 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission, operational development comprising of the erection of a close-boarded fence which exceeds one metre in height adjacent to a highway used by vehicular traffic.
 - The requirements of the notice are: a) Reduce the height of the fence, including posts, to no more than one metre in height above ground level. b) Remove from the Land all materials and debris.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Summary of Decision

1. The appeal is dismissed and the enforcement notice upheld.

Main Issues

2. The main issues are the effect of the fencing on the:
 - i. character and appearance of the area; and,
 - ii. highway safety.

Reasons

3. The deemed planning application before me relates to the retention of two sections of fencing constructed at the site which are at a height of approximately 1.86m.

Character and appearance

4. The site is situated on a prominent corner plot in a residential area of predominantly terraced and semi-detached properties, as well as flats. The area itself is defined by mature landscaped frontages and open verges, set within relatively spacious surroundings.

5. The parties have highlighted, and I could see during my site visit, that there are a variety of boundary treatments in the area and therefore the character of the area in this regard is relatively mixed.
6. However, there remains a predominance of hedgerows in the area which reinforces local distinctiveness. The evidence before me is the site was previously bounded by a mature hedgerow. Softer boundary treatments such as hedgerows therefore better reflect the character and identity of the area, which is otherwise undermined by boundary treatments of poor design.
7. The fencing before me abuts the footway and extends around the corner plot for a considerable distance. Even though it is in two sections owing to the vehicular access point, it is visually conspicuous owing to its height, hard articulated form, and consequent appearance in this prominent location.
8. I am not persuaded that the fencing represents a high standard of design or one that responds to positive elements of character. This is not merely an idealised standard, as I find the fencing is not visually attractive within the street-scene and neither contributes to nor positively compliments the locality.
9. I therefore readily appreciate there are examples of other fences in the vicinity of the site and so fencing is not an entirely alien feature in itself. However, in light of my findings, other examples of conspicuous fencing are not compelling reason to accept the fencing the subject of the deemed planning application. Accordingly, the fencing does not draw on the best aspects of local context and does not create a strong sense of place.
10. I conclude the fencing is harmful to the character and appearance of the area and contravenes Policy 57 of the adopted Wiltshire Core Strategy, January 2015 (the CS). This policy, amongst other things, requires development to create a strong sense of place through drawing on the local context and being complimentary to the locality, and, that a high standard of design is required in all new developments. For the same reasons the fencing contravenes the Council's Creating Places Design Guide 2006, National Design Guide and achieving well-designed places objectives of the National Planning Policy Framework. This is a planning harm to which I attach considerable weight.

Highway safety

11. Both stretches of fencing reach a corner adjacent with a vehicular access point which provides a driveway for offroad parking. This is accessed from Devereux Road. The fencing is therefore at its full height immediately rear of the footway and to both sides of this driveway.
12. Only limited details of visibility splays have been provided, but it was clear to me during my site visit that visibility is severely obstructed for vehicles leaving the driveway and this would compromise pedestrian safety as well as highway safety, particularly as the access is close with the junction at Antrobus Road.
13. I recognise the previous hedgerow may have also restricted visibility. However, based on the photographs before me, that hedgerow tapered towards the driveway and/or was not situated quite as close and impenetrably as the fencing which has since been erected.
14. The installation of the fencing has therefore had an impact on achievable visibility, such that it has been materially altered. In the absence of full

visibility splay details, I do not accept there has been only a negligible impact on highway safety.

15. Moreover, the removal of the hedgerow is evidence that it was a comparatively transient feature, whereas I am considering a permanent development which requires planning permission. Given the height and proximity of the fencing to the footway, I am not satisfied it has been demonstrated that highway safety is not harmed.
16. I appreciate a different location for two parts of the fencing has then been put to me. However, as it involves a different location, this proposal amounts to a different scheme which thus goes beyond the scope of the deemed planning application before me. I am therefore unable to consider this scheme further as it is not part of the matters enforced against.
17. I conclude the fencing is harmful to highway safety and contravenes Policy 57 of the CS. This policy, amongst other things, requires rights of way across the public realm to be safe. This is a planning harm to which I attach moderate weight.

Other considerations

18. I appreciate the appellant expects a good level of privacy, particularly for their children, given the site is on a corner plot, and I have sympathy in this regard. The appellant has therefore proposed to retain the rear section of fencing at its current height and reduce the remainder to 1m in height.
19. There is however little evidence before me as to why other boundary treatments have been discounted, including re-planting a hedgerow, even if this may not provide an immediate solution. Moreover, the enforcement notice would see the front fencing retained at 1m in any event and the proposal before me also includes a different location for part of the fencing, and it is therefore not a scheme I can consider further as it is not part of the matters enforced against. I have also found the height of the fencing harmful. Accordingly, I can therefore attach only moderate weight to this consideration.

Planning balance

20. I have found harm to the character and appearance of the area and to highway safety, which attract considerable weight and moderate weight respectively. The other considerations attract moderate weight and therefore do not outweigh the harm I have identified.

Conclusion

21. For these reasons and having regard to all other relevant matters raised, I conclude that the appeal on ground (a) should fail. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decision

22. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Paul T Hocking

INSPECTOR