



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/22/3293501

Land at 40 Antrobus Road, Amesbury, Salisbury, Wiltshire SP4 7NU

- 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 Miss Susan Paul against an enforcement notice issued by Wiltshire Council.
 - The enforcement notice was issued on 26 January 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 the fencing constructed at the site which is at a height of approximately 2m.

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, the vernacular of 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. It is then visually conspicuous owing to its height, hard articulated form, and consequent appearance in this prominent location.
8. I am therefore not persuaded that fencing of this height represents a high standard of design or one that responds to positive elements of character given its location. I do not find the fencing to be an improvement over the previous hedge, and it neither contributes to nor compliments the locality. This is not an idealised standard, as I find the fencing to not be visually attractive within the street-scene.
9. I therefore readily appreciate there are examples of other fences in the vicinity of the site. 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. The fencing reaches a corner adjacent with a vehicular access point which provides a driveway for offroad parking and garaging. This is accessed from Devereux Road. The fencing is therefore at its full height immediately rear of the footway and with one side of this driveway.
12. Only limited details of visibility splays have been provided, but it was clear 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 and encroached over the footway. However, a photograph in the appellant's statement shows part of it as having been trimmed back at an angle, presumably to afford greater visibility. This adds weight to my concerns about the lack of overall visibility and highway safety. 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.

14. The installation of the fencing has therefore materially altered achievable visibility. In the absence of full visibility splay details, I do not accept there has been only a negligible impact on highway safety. Given the height and proximity of the fencing to the footway, I am therefore not satisfied it has been demonstrated that highway safety is not harmed.
15. I appreciate a different location for part of the fencing has then been put to me. However, as it does not involve the reduction in the height or length of the fencing, but rather a different location, this proposal amounts to a different scheme which thus goes beyond the scope of the deemed application before me. I am therefore unable to consider this scheme further as it is not part of the matters enforced against.
16. 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

17. I appreciate the appellant expects a good level of privacy, given the site is on a corner plot, and I have sympathy in this regard. Whilst a reduction in the height of the fencing to 1m would not provide the desired levels of privacy, there is 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. Accordingly, I can therefore attach only moderate weight to this consideration.

Planning balance

18. 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

19. 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

20. 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