

Appeal Decision

Site visit made on 27 January 2023

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2023

Appeal Ref: APP/V4250/D/22/3306298

20 Cadogan Drive, Winstanley WN3 6JH

- 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 Daniel Broady against the decision of Wigan Metropolitan Borough Council.
 - The application Ref A/21/92798/HHRET, dated 24 November 2021, was refused by notice dated 20 June 2022.
 - The development proposed is to erect 6ft high fence around property boundary at the side of the property.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The fence that is subject of the appeal has been erected on site. As there are no elevational plans of the fence, I have considered the proposal based on the submitted photographs which reflect my observations on site.

Main Issues

3. The main issues are the effect of the proposal on: the character and appearance of the area; and highway safety in Cadogan Drive, with regards to pedestrian safety.

Reasons

Character and appearance

4. The appeal property occupies a corner plot at the junction of Cadogan Drive and Warminster Grove. The local area is characterised by residential properties with front gardens and individual driveways. Properties in Warminster Grove have open plan frontages or low boundary treatments. The same applies in Cadogan Drive, though some have landscaping next to the road.
5. The fence extends from the front elevation of the appeal property to the back of the footway on Warminster Grove. Due to its siting, height and design the fence does jar with the open character found along Warminster Grove. It is a dominant form of development that does not respect the character and identity of the locality. Tall fences extend to the side of corner plots at the junctions of Cadogan Drive and Andover Crescent, Cadogan Drive and Petworth Avenue, Cadogan Drive and Westbury Avenue and Andover Crescent and Colerne Way. These fences provide privacy to the occupants in their rear gardens. It is unclear whether they benefit from planning permission, but from what I could see, they appear to be of a condition that indicates they have been present for many years. Even so, they do not generally protrude forward of the front building line of the properties, and their open character on the return street.

6. Furthermore, it is unclear whether the boundary fence at 7 Cadogan Drive benefits from planning permission given that it does not form part of the appellant's supporting evidence. Also, the fence directly to the north of the appeal property is screened by a mature hedge that extends around that property's rear garden. This softens its appearance. Therefore, the proposal causes harm to the character and appearance of the area even if the fence is easy to maintain, reduces the risk of crime and anti-social behaviour.
7. Privacy has been and still is a valued aspect of residents living conditions. The content of the appeal property's deed is not before me, and whether they are being complied with is a civil issue not a planning matter. Though insofar as the appellant's point about the evolution of the area's character and appearance, I have noted the examples of fences provided by the appellant. Each of these appear to benefit from planning permission, but I do not have details of the reasoning behind those decisions or the approved plans.
8. Nevertheless, the examples at Clapgate Lane, Dunscore Road, Duke Street, Kentford Drive, 3 Holmes House Avenue, Hillongton Way, 17 Melrose Drive, Mendip Avenue, Paris Avenue, Waverley Court, Shefford Crescent and Sturton Avenue are not directly comparable to the proposal as the sites do not have an open plan character in their locality. The examples at 27 Anthorn Road, Burley Crescent, Crestwood Avenue, Dalton Drive, Erradale Crescent, Foxdene Grove, Highfield Grange Avenue, 40 Holmes House Avenue, Ravenswood Avenue and Southery Crescent all contain a mixture of boundary treatments in the area. Thus, their character is mixed and not the same as Warminster Grove.
9. I recognise that the examples at Cavendish Drive and Darran Avenue are not dissimilar to the proposal, but their effect on the character and appearance is not as great due to the landscaping and/or fencing to the rear of those properties. Also, the fence at 5 Banham Avenue does not have a similar effect on the open character of neighbouring plots due to the curved alignment of the road. However, the examples at 42 Anthorn Road, Kirkstile, 72 Holmes House Avenue and 37 Melrose Drive have a bearing on the open character to the rear, but as their side projections are not as great as the proposal, the effect is less.
10. As such, the examples referred to are not directly comparable to the proposal for the reasons set out even though some are for fences of a similar siting, style, height and design. They do not justify the appeal scheme's harmful effect on the character and appearance of the area, or alter my conclusion, on this issue, that the proposal conflicts with Policy CP10 of the Wigan Local Plan Core Strategy (Core Strategy). This policy seeks, among other things, development to respect and acknowledge the character and identity of its locality, in terms of the siting, scale and details used so that it integrates effectively with its surroundings and helps to create attractive places.
11. Although Core Strategy Policy CP17 is referred to by the Council it is not relevant to this issue as it relates to environmental protection considerations.

Highway safety

12. The appeal property's driveway is to the rear of the plot. Access to and from it is from Warminster Grove. Neighbouring properties in Warminster Grove have driveways to the front of properties. There are pedestrian footways on either side of the road which extends to a cul-de-sac to the south.
13. Due to the siting of the fence at the back of the footway, allied with its height

and design, persons egressing from the driveway onto Warminster Grove cannot see whether there are any persons travelling on the footway next to the appeal property from a northerly direction. Whilst Warminster Grove may be lightly trafficked, persons using the footway to the north of the driveway would not be able to see any vehicle pulling off the drive until it is potentially too late even if vehicle speeds are low. The potential for conflicts exists. As such, the proposal does not maximise the safety of the road network.

14. The use of mirrors is not a suitable option as they could be removed, reflect light, or suffer from condensation. Light reflection, for example, would affect a driver's vision and therefore their judgement about the situation.
15. Whereas, if a pedestrian visibility splay of 2 metres by 2 metres was formed from the back of the footway, persons using the footway in either direction would be safe as they could be seen by the driver. This would not be an issue given the low fence to the boundary with 2 Warminster Grove, whilst the fence erected at the appeal property could be re-sited to achieve the visibility splay. A planning condition could secure this change. I note that a pedestrian visibility splay is not present on numerous examples referred to by the appellant. However, that does not justify allowing the situation on the ground to remain given the potential for conflict to arise. Accordingly, I conclude, on this issue, that the proposal accords with Core Strategy Policy CP7 as it would maximise highway safety in Cadogan Drive, with regards to pedestrian safety.

Other Matters

16. Neighbouring residents may not have objected to the proposal and may have been complementary about the fence, but I have considered the proposal on its planning merits alone based on current circumstances, notwithstanding the appellant's future intention to remove the driveway.
17. I note the appellant's points about the time, effort and resources involved through the planning application process and their points about communication with the Council. I understand their disappointment and frustration, but this does not alter or outweigh the proposal's harmful impact. It is also open to the appellant to propose a boundary treatment to the Council that would provide them with privacy in their rear garden whilst not harming the character and appearance of the area.

Conclusion

18. The fence does provide the occupants of the appeal property with privacy in their rear garden. It also provides them with a useable private space that they can enjoy. These are matters that weigh in favour of the appeal scheme. However, this nor my finding in respect of highway safety changes my conclusion that the proposal does not accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this. I therefore conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR