



Appeal Decision

Site visit made on 31 January 2023

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2023

Appeal Ref: APP/N2739/D/22/3313397

1 Westcroft Lane, Hambleton, Selby, N.Yorks, YO8 9JQ

- 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 Brian Stotten against the decision of Selby District Council.
 - The application Ref: 2022/0112/HPA, dated 28 March 2022, was refused by notice dated 11 November 2022.
 - The development is described as 'to remove unruly hedging and shrubs forming the boundary of the property on Bar Lane and Westcroft Lane and replace with fencing to a height of 1.8m, formed by Premier Feather Edge Semi braced fence panels and rock faced gravel boards secured by slotted concrete fence posts. This installation matches the fencing currently dividing 1, Westcroft Lane from the adjoining properties on either side.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the banner heading above is taken from the planning application form. The description was amended during the course of the application in order to reflect the height of the fence (1.8 – 2.04 metres). These height measurements are also referred to in the submissions of both main parties. The development has already been carried out. I have therefore considered the appeal as per the amended description and on a retrospective basis.
3. The Council's second reason for refusal refers to 'Westfield Lane'. The description of development from the application form names the same road as 'Westcroft Lane'. The appellant has pointed out that the road in question is in fact Westcroft Lane. I have proceeded on this basis.

Main Issues

4. The main issues are the effect of the development on (i) highway safety, with regard to junction visibility; and (ii) the character and appearance of the area.

Reasons

Highway Safety

5. The appeal site lies on a corner plot, where Bar Lane meets Westcroft Lane at a priority junction. The development has been built along the entirety of the

site's long frontages with these roads, apart from where the site access is formed. The development thus extends at some height and in a close boarded form up to this road junction. It is separated from the roadway itself by a grass verge on Bar Lane and a footway on Westcroft Lane. Both these roads provide access to this part of the village and then to the open countryside beyond. Past the junction, Westcroft Lane becomes Old Lane, a single track road, and there is also an access lane to an isolated property on the opposite side of the junction to Bar Lane.

6. With the proximity of the development to these roads, it forms an obstacle that interferes with the visibility of traffic using this junction. There is no great setback from either of these roads to afford a reasonable view of traffic emerging from Bar Lane or approaching from Westcroft Lane in an easterly direction. The slight curving of the fence at the junction does not overcome what is an unsatisfactory arrangement as regards visibility.
7. While these roads are lightly trafficked and speeds are restricted, this does not account for the potential for conditions that give rise to highway safety concerns, when vehicles are attempting to utilise the junction. The same applies with regard to that the main road through the village lies well north of the site. Nor can it be assumed that all users will know these roads well and be familiar with the access points. There will be visitors using this junction on occasion and local residents still have to negotiate the poor visibility.
8. I have been referred to both the visibility sight lines standards that the Highway Authority apply and those that are set out in the Manual for Streets document. Whether a development is safe though is a matter of judgement for the decision maker in taking account of the evidence. With the interference that is caused with the visibility of the junction, the development creates inherently unsafe conditions. There is not substantive evidence before me that vegetation would cause the same level of effect.
9. In order to try to alleviate such concerns, the appellant has offered to install a convex mirror on the corner opposite Bar Lane. The details that are before me though are of a limited nature in relation to the land in question, siting and effectiveness in order to persuade me that this matter can be satisfactorily overcome. Even if I was minded to allow the appeal, the imposition of a related planning condition would thus have the potential to nullify a planning permission. Hence, it does not alter my conclusion on this issue.
10. I agree with the appellant in that saved policies T1 and T2 of the Council's Selby District Local Plan (2005) (Local Plan) are of limited relevance in this case. They concern traffic generated by development proposals and the creation of a new access or the intensification of the use of an existing access. However, this does not mean that the effect on junction visibility is not for my consideration, especially as highway safety is expressed in broader terms in the National Planning Policy Framework (Framework).
11. I conclude that the development has an unacceptable effect on highway safety, with regard to junction visibility. There is not a strict conflict with saved policies T1 and T2. However, it does not comply with paragraph 111 of the Framework where it states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. Other paragraphs in this section of the Framework that have

been referred to in the submissions are not in dispute between the main parties.

Character and Appearance

12. The site lies on the fringes of the village. Immediately opposite the site and beyond, there is an expansive open rural landscape with occasional built development. The frontage boundaries of the properties on this edge of the village also reflect these surroundings in that hedgerows are commonplace. They contribute towards a softer rural transition. Fences are less frequent and are not a prevailing characteristic.
13. Due to its design, the development represents a distinctly harder form of boundary treatment. It is a solid structure of some height and is sited not insignificant distances along each of the frontages. It is therefore of some scale for a domestic fence on the edge of the village that is close to open rural land. The corner plot location also results in the development being highly conspicuous.
14. As a consequence, the development has a stark effect on this location. As a means of enclosure, it is visually harmful, particularly when the open and rural character of nearby land is considered. It is not in keeping with this aspect of the local character.
15. The development is also out of character with the more typical forms of enclosure found in this part of the village. It is in marked contrast to the hedgerows that are found in its vicinity. Where there are fences, or walls, in the immediate locality, they are not in such prominent positions and in some cases are of a lower height. The close boarded fence of a similar design that is found on a neighbouring property extends away from its site frontage, rather than along it, and so it does not have the same level of impact.
16. A further close boarded fence that I have been referred to on Bar Lane does not extend around its site frontages to the same extent and so has significantly more regard for its corner plot location. The same applies as regards a brick pillar enclosure arrangement on Westcroft Lane, whereas the example cited on Gibson Close angles back behind a widening grass verge so as to lessen its presence. I am satisfied that these site circumstances are sufficiently different so as not to change my view.
17. These examples are also finished in a darker stain than the lighter colour development that is for my consideration. Due to the scale and siting of the development alongside the extent of both frontages and up to the corner, applying such a finish would not adequately address the unacceptable harm that arises.
18. I conclude that the development has an unacceptable effect on the character and appearance of the area. As such, it does not comply with saved Policy ENV1 of the Local Plan and Policy SP19 of the Selby District Core Strategy Local Plan (2013) where they are concerned with the effect upon the character of the area, and development proposals achieving high quality design and having regard to the local character, identity and context of its surroundings. Compliance with parts of these policies where they do not concern character and appearance matters does not address the conflict that arises on this issue.

19. The development also does not accord with the Framework where it identifies that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

Other Matters

20. The layout of the site means that the development encloses the garden area of the property and so therefore provides privacy and security, as well as contributing to the beneficial use of the garden for its occupiers. However, achieving a not unacceptable effect on highway safety and the character and appearance of the area are also legitimate planning considerations. They are decisive due to the level of adverse effect which occurs.
21. There is also not compelling evidence before me that other less intrusive forms of enclosure or other measures would not equally achieve these desired outcomes, including with regard to where the appellant has referred to the Section 17 Duty under the Act. The description of development refers to maintenance issues associated with former hedging and shrubs on the boundaries, but this is also not a matter which outweighs the harm that arises, especially with the softer appearance of vegetation.

Conclusion

22. For the reasons set out above and having regard to all matters that have been raised, the appeal should be dismissed.

Darren Hendley

INSPECTOR