



Appeal Decision

Site visit made on 28 February 2023

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 April 2023

Appeal Ref: APP/N4720/D/22/3310977

56 Woodland Road, Halton, Leeds, LS15 7DJ

- The appeal is made by Mr & Mrs Scott and Nicola Marshall against the decision of Leeds City Council.
 - The application Ref 22/04450/FU, dated 27 June 2022, was refused by notice dated 30 September 2022.
 - The development proposed is described as retrospective application for erection of maximum 1.9m high timber panel fence including gravel board to front of house adjacent to road, in between adjoining house (Woodland Hill) maximum height 1.9m and in between adjacent house (Woodland Road) maximum height 1.85m.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development has already been carried out and, hence, I have dealt with the appeal on a retrospective basis.

Main Issue

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

Reasons

4. The fence runs along the majority of the front boundary of No 56 Woodland Road (No 56), and the front joint side boundary with No 59 Woodland Hill (No 59) and that of 58 Woodland Road No 58). It reaches a maximum height of approximately 1.9 metres (m) and follows the slope of Woodland Road. It is constructed from timber fence panels, with a natural finish, set above gravel boards at the back edge of the footway.
5. The appeal site is located in a residential area, comprised of regularly spaced buildings and is situated towards the corner with the crossroad of Woodland Hill. Although no single type of boundary treatment predominates, solid and brick wall front boundaries tend to be lower, which allows the appreciation of the space in front of dwellings and front gardens. The residential layout therefore maintains a spacious and open character and appearance.
6. Compared to this, the fence presents a high enclosure that appears in stark contrast to the lower boundaries, and softer forms of boundary treatment. Whilst some vegetative boundaries are overgrown and ultimately enclose and obscure properties and gardens, these are natural and visibly different in character and appearance.

7. The fence is also clearly visible with its location being adjacent to the footway and afforded vantage points across a wide and open crossroad. Taking these factors together, the height and solid design and enclosure of the fence detracts from the residential layout and has an incongruous and detrimental effect of the character and appearance of the area.
8. Whilst the appeal fence is similar in appearance to other examples provided, given the variance of other boundary treatments, I do not find that these other examples define the character of the area. In addition, the Council has advised within the officer report that No 61 Woodland Road and No's 58 and 58a Woodland Hill do not benefit from planning permission. I also do not have any evidence to the contrary regarding the length of time other fences have been in situ. This limits the weight I can give to the similarity and presence of other fences. I have to determine the appeal on the merits of what is before me to consider, and their presence does not outweigh the harm identified.
9. I have been made aware of the state and maintenance of the former hedge on this boundary, and upon the footpath. There was some support for the fence expressed on maintenance, appearance and living conditions for neighbours. A hedge would be likely, though, to be more in keeping as a less formal boundary treatment, and there is no substantive evidence it caused overshadowing or could not be maintained.
10. The appellant has offered to stain and reduce the height of the fence. However, this detail is not before me, and it would alter the development that the Council based its decision on and was the subject of consultation with the interested parties. Hence, it would not be reasonable for this to be imposed through my decision. In any event, even if plans were provided, the reduction in height to 1.7 m would be minimal and would not alter the substantive appearance of the fence to address the concerns on character and appearance.
11. The development would harm the character and appearance of the area. Consequently, the proposal conflicts with Policy P10 of the Leeds City Council Core Strategy (amended 2019), saved Policies N25 and GP5 of the Leeds City Council Unitary Development Plan (Review 2006) and the Council's Householder Design Guide Supplementary Planning Document (2012). Amongst other things, these require new development, including boundary treatments, to be well designed, appropriate to its context, and with the intention of contributing positively to place making. The proposal is also contrary to the National Planning Policy Framework with regards to achieving well designed places.

Other Matters

12. Article 8(1) of the European Convention on Human Rights as enshrined in the Human Rights Act 1998, states that everyone has the right to respect for private and family life and home. However, there is no substantive evidence that this decision will directly lead to any change in the circumstances of any existing occupant. There is nothing in the evidence to suggest that this proposal is the only option to achieve the appellant's desired aims in respect of securing or providing privacy. The degree of interference that would be caused therefore, would be insufficient to give rise to a violation of rights under Article 8 of the First Protocol.

13. The appellant's concern about crime and disorder is not supported by any substantive evidence in this respect, nor am I convinced this would be the only means to secure the appeal site. In addition, it is noted that matters of highway safety were not transposed to the Council's reasons for refusal. Nor was it considered that the proposal would cause harm to neighbouring living conditions. Whilst I do not disagree on these aspects, the absence of harm is a neutral factor, and none are matters which justify or outweigh the harm to the character and appearance of the area.
14. The appellant states they were unaware of the need to apply for planning permission, the removal or alteration of fences have financial implications, and they refer to the Council's assessment and handling of the application. Whilst the latter element is a matter between the two main parties, these issues as well as the personal nature of any initial complaint being made to the Council, and whether or not the Council undertakes any further action on any other unauthorised development are not matters which have any bearing on my consideration of the planning merits of this appeal.

Conclusion

15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires all proposals for development to be determined in accordance with the development plan unless material considerations indicate otherwise. As I have found above, the appeal proposal would conflict with the relevant policies of the development plan and there are no material considerations that justify making a decision other than in accordance with it.
16. For the reasons given above and having taken all other matters into account, I conclude that the appeal should be dismissed.

K Williams

INSPECTOR