



Appeal Decision

Site visit made on 4 September 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2023

Appeal Ref: APP/P1805/D/23/3320665

38 Cavendish Drive, Hagley, Worcestershire DY9 0LR

- 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 Andrew Jones against the decision of Bromsgrove District Council.
 - The application Ref 23/00103/FUL, dated 25 January 2023, was refused by notice dated 16 March 2023.
 - The development proposed is described as “to erect a 2 metre height fence on the boundary of garden. This would consist of fence panel and gravel boards”.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have determined the appeal on the basis of the submitted plans titled ‘Site Plan’ and ‘Block Plan dated 23 February 2023’, which I understand are the same plans considered by the Council.

Main Issue

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

Reasons

4. The appeal site comprises a single storey, detached property, located on a prominent and largely open corner plot, within a predominately residential area. Boundary treatments in the area predominately comprise hedges, with some timber fencing and brick walls. There are small pockets of open space, of varying sizes, within the wider estate and, together with wide pavements and deep grassed verges, give the area an open, spacious and verdant feel. The spaciousness of the area is further reinforced through the siting of properties set back from the road, with largely open frontages. The vegetation, open spaces and property layouts contribute to the character and appearance of the area.
5. I understand that large conifers were previously located along the side boundary of No 38. A photo of the site, prior to their removal, has been submitted as part of this appeal. Based on the information before me, the conifers would have contributed to the character of the area.
6. The significant length of fencing proposed, together with its height and design, would result in a stark, dominant feature in a prominent location. While the fence would not be forward of the building line to the front of the site, its

prominence would be further exacerbated due to it being sited forward of the frontage of the neighbouring property, 36 Cavendish Drive. This is at odds with the prevailing character of the area, and thus would be an incongruous feature at this generally verdant and open location.

7. Although the proposed fencing would be 1 metre from the side boundary of the site, it would enclose almost all of the side and rear garden associated with No 38, thereby eroding the open aspect of the corner plot. This is at odds with the prevailing character of the area.
8. The appellant intends to plant a hedge to screen the fence, although no detailed landscaping scheme has been submitted for consideration. There is little substantive evidence therefore which demonstrates that the proposed planting would mature to the extent suggested by the submitted illustration. Therefore, I am not satisfied that any such planting would provide sufficient visual relief to mitigate against the harm identified.
9. It has been brought to my attention that there are other fences and walls within the area, and I observed a number during my site visit. I have limited information before me relating to the history of these and what boundary treatments, if any, they replaced. Notwithstanding this, the fences and walls are not directly comparable, due to their location, including proximity to the road, design and prominence.
10. For the reasons above, the development would result in unacceptable harm to the character and appearance of the area. This is contrary to Policy BDP19 of the Bromsgrove District Plan Proposed Submission Version 2011-2030 and the guidance within the High Quality Design Supplementary Planning Document Adopted 2019. Collectively, these seek, among other things, to ensure development enhances the character and distinctiveness of the local area and achieves a high standard of design. It is also contrary to the National Planning Policy Framework, which seeks, among other things, to ensure development is sympathetic to local character.

Other Matters

11. The appellant contends the fence would overcome safety and trespass issues and would ensure the site is no longer regarded as a public right of way. However, I have limited evidence before me to demonstrate that these concerns could not be met through different options, with appropriately designed boundary treatment. Accordingly, these matters carry limited weight.
12. Although the appellant contends the previous conifers within the site had become a public nuisance, as they were overhanging the pavement, there is little evidence to demonstrate such issues. This therefore carries limited weight.
13. The appellant is aware of the culverted watercourse discharge and has highlighted they would ensure due care is taken and observed during the erection of the proposed fence. This is a neutral matter.
14. The appellant has highlighted there is no give way adjacent to No 38 and therefore contends there is no increased danger to motorists or pedestrians. I note that highway officers did not raise any objections in this regard. There were also no objections raised from neighbours. A lack of harm in respect of highway safety and a lack of objections are neutral matters.

15. The proposed development is required to provide secure boundary treatment for the safety and privacy of a child. It is therefore required, in part, for the best interests of the child, which is a primary consideration in this appeal; no other issue is intrinsically more important. Therefore, I have had regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010. The duty includes having regard to the need to eliminate discrimination, harassment and advance equality of opportunity between those sharing relevant protected characteristics and those who do not. While I am mindful of the needs of the children, it has not been demonstrated that the needs cannot be met by a less harmful scheme. Therefore, the PSED do not outweigh the harm that I have identified, and following careful consideration of these matters, I am satisfied that the impact of dismissing this appeal is proportionate and justified.
16. I understand that there is no reference to an 'open plan' covenant within the appellants deeds. Notwithstanding, land ownership is a civil matter and therefore has no bearing on my assessment.
17. I note the comments made in relation to the advice sought from the Council and the submission of the amended plan. In determining the appeal, I am required to have regard to the planning merits of the development, and this is therefore a matter between the appellant and the Council.

Conclusion

18. For the above reasons, the appeal proposal would conflict with the development plan as a whole. There are no material considerations that indicate I should conclude other than in accordance with it. Consequently, I conclude that the appeal is dismissed.

S Pearce

INSPECTOR