



Appeal Decision

Site visit made on 12 September 2023

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 October 2023

Appeal Ref: APP/V3120/D/22/3290729

5 Maple Road, Farringdon SN7 8BD

- 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 Nik Loveridge against the decision of Vale of White Horse District Council.
 - The application Ref P21/V2004/HH, dated 12 July 2021, was refused by notice dated 22 December 2021.
 - The development proposed is the erection of a fence around a private residential garden.
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Decision

1. The appeal is dismissed.

Main Issue

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

Reasons

3. Maple Road is a residential cul-de-sac. Where boundary treatments exist to the front of the properties, these mainly include very low walls and/or soft landscaping. The nearby corner plots retain an area of lawn or soft landscaping between their side boundaries and the highway verge. This gives the street a pleasant soft-landscaped and spacious character.
4. The appeal property is a prominent corner plot, which had an open aspect around the dwelling, reflective of the green and spacious character and appearance of the housing estate. This open space made a positive contribution to the character and appearance of the area.
5. The tall close boarded fence runs for a considerable length along the property's frontage and side boundary with the highway. Although the front facing section of the fence has been set back from the highway, the fence enclosed most of the open space around the dwelling and resulted in its loss. Given its height, length and prominence, it forms a large, obtrusive and incongruous feature in the street scene which is at odds with the prevailing spacious character. Further, the proximity between the fence and the tree makes the site appear cramped.
6. Although I observed other fences during my site visit, including the existing fence on the site, these are less prominent in the street scene and are mostly screened by vegetation, unlike the appeal scheme. As such, these structures do

not change my conclusion that the development would detract from the character and appearance of the area.

7. I acknowledge the condition on a previous planning permission removing permitted development rights for the erection of boundary treatments. However, the development is not being considered against the wording of this condition and, as such, the location of the fence in relation to the dwelling's front elevation has limited relevance. The condition does however highlight the Council's intention to control the original open plan design across the estate.
8. I appreciate that the appellant is seeking to increase the size of the garden. However, there is limited evidence before me to demonstrate that the original garden did not have sufficient space. As such, I afford this very limited weight.
9. I note the appellant's comments regarding 'amenity'. However, I have clearly set out above the key features that define the character and appearance of the area and the harm arising from the development.
10. The Vale of the White Horse Design Guide 2015 sets out that close-boarded or panel fencing is not an appropriate boundary treatment for prominent locations, such as street frontages. To my mind, this stance applies to any boundary treatment that is prominent in the street scene. As such, I do not share the appellant's view that the Design Guide does not apply to the proposed development.
11. In light of the above, I conclude that the development is detrimental to the character and appearance of the area. The development is contrary to Core Policy CS37 of the Vale of the White Horse Local Plan 2031 Part 1 – Strategic Sites and Policies 2016, which requires new development to respond positively to the site and its surroundings. The development fails to comply with the Vale of White Horse Design Guide 2015, which seeks to ensure that boundary treatments are reflective of the area. The development is also contrary to the National Planning Policy Framework where it seeks to ensure that development is sympathetic to local character.

Other Matters

12. I have had regard to the consultation response from the Local Highway Authority. However, this is a neutral factor that neither weighs for or against the development, as it only relates to the absence of impact on highway safety.
13. I understand that the wall that was previously in place was ill maintained, but I have not been provided with any reasoning to indicate why it could not have been repaired or replaced. It therefore does not outweigh my findings in respect of the fence.
14. The fence provides privacy to the garden, as well as additional security and safety, including for children. However, these matters do not mean that the fence is an acceptable solution and therefore they do not outweigh the harm to the character and appearance of the area. Further, I am not persuaded that a fence is the only means to ascertain that the land is used and well maintained as, notwithstanding the fence, it remains a part of the property.
15. The appellant has made efforts to engage with the Council aiming to reach an alternative solution and suggestion to replace the existing fence with trees and hedges, which are a part of the character of the area. However, these are not

the schemes before me and, as such, I have considered the application based on the submitted plans.

16. I have considered the appellant's rights under Article 8 of the European Convention on Human Rights, Article 12 of the Universal Declaration of Human Rights and Article 7 of the European Charter of Fundamental Rights. These Articles afford the right to respect for private and family life. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. Dismissing the appeal would interfere with the appellant's rights under these Articles, since the consequence would be that the appellant would be unable to enclose the open space next to the house.
17. However, the interference would be in accordance with the law and in pursuance of a legitimate aim which is the regulation of the development of land in the public interest through the planning process. Given the circumstances overall, I find that dismissal of the appeal is both proportionate and necessary.
18. The appellant advises that the fence has been erected in accordance with the property deeds. However, this is a private law matter which falls outside the remit of this appeal decision and does not absolve the appellant from having to secure planning permission.

Conclusion

19. Overall, I conclude that the development conflicts with the development plan as a whole and there are no material considerations of sufficient weight to indicate that a decision should be made otherwise than in accordance with it. Therefore, the appeal is dismissed.

P Terceiro

INSPECTOR