



Appeal Decision

Site visit made on 20 September 2023

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd November 2023

Appeal Ref: APP/G5180/D/23/3318833

35 Commonsides, Keston BR2 6BS

- 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 Mrs Rowena Harrold against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/21/04969/FULL6, dated 23 September 2021, was refused by notice dated 3 March 2023.
 - The development proposed is described as "Earlier this year we were contacted by a Council representative who said there had been a complaint about encroachment on the road of our shrubbery and an overhanging tree. As such we agreed to cut back the shrubbery along our border and the overhanging tree. We had to pay for the road to be closed (£600) and then Darwin tree surgeons came and carried out the clearance and tree cutting (£1,500). Once everything was cleared (over two meters depth of shrubbery); the existing boundary fence, which has been in situ for around 40 years, was revealed. The existing fence was damaged and there were large gaps where the fence had broken down over the years due to tree growth. Our private property and garden was suddenly grossly exposed and so we decided to take out the existing damaged fence and replace it with a new one. This took place in May / June of this year."
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Decision

1. The appeal is allowed and planning permission is granted for a fence at 35 Commonsides, Keston BR2 6BS in accordance with the terms of the application, Ref 21/04969/FULL6, dated 23 September 2022, and the plans submitted with it, subject to the following condition:
 - 1) Within one year of the date of this decision, the parts of the fence hereby permitted not already stained shall be stained in a dark green colour to match the parts of the fence already stained. The whole fence hereby permitted shall be retained in this colour for the lifetime of the development.

Preliminary Matters

2. I must determine the appeal on the basis of the submitted plans and information considered by the Council. I note that the fence has already been erected. Much but not all of it has been stained green since the original application was submitted as set out in the details accompanying the application.
3. The description of development set out in the banner heading above is taken from the application form. However, it is clear from the plans and accompanying details, including the appeal form, that the development

comprises a fence. The Council dealt with the proposal on this basis and so shall I. The decision in paragraph 1 above reflects this approach.

4. The appellant considers that the fence is permitted development granted planning permission by Class A, Part 2, Schedule 2 of the GPDO¹. Within the context of this appeal under section 78 of the Act, it is not my remit to formally determine whether the fence is permitted development. If the appellant wishes to ascertain whether it is permitted development, an application can be made under section 191/192 of the Act.

Main Issues

5. The main issues are:

- whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and
- the effect of the development on the character and appearance of the area.

Reasons

Whether the proposal represents inappropriate development

6. The site is located within the Green Belt as identified in the Council's Local Plan 2019 (the Local Plan). Policy 49 of the Local Plan and Policy G2 of the London Plan 2021 (the London Plan) are relevant. Together, these seek to protect the Green Belt from inappropriate development.
7. The Framework establishes that the construction of new buildings in the Green Belt is inappropriate subject to a number of exceptions. The term 'building' refers to any structure or erection and it therefore includes fences. The exceptions include the replacement of a building, provided that it is in the same use and not materially larger than the one it replaces. Policy 49 of the Local Plan also refers to this exception.
8. The Council's description of development used in the Planning Officer's Report (the Report) and the decision notice refers to 'Fence replacement (retrospective)'. The Report refers to the previously existing fence and to the replaced 1.8m high wooden fencing. There is nothing in the evidence before me to suggest that the fence is anything other than a replacement for a previous fence of the same height and in the same location.
9. Therefore, I conclude that the proposal comprises the replacement of a structure which is in the same use and not materially larger than the one it replaces and therefore it is not inappropriate development in the Green Belt. Consequently, it complies with Policy 49 of the Local Plan, Policy G2 of the London Plan, and the Framework.

Character and appearance

10. The site comprises a large dwelling within a significant sized plot adjacent to Commonsides. There is dense landscaping within the site and on the common land opposite which gives it a rural character. There is a boundary hedge and

¹ Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

fence alongside the host dwelling and, further south, other houses have hedges and low walls on their street facing boundaries.

11. The fence follows the slope of the bank on which it sits. Much of it is separated from the road by a landscaped strip of trees and vegetation which partially screens it, and which will grow and mature over time, further obscuring views of the fence. Although it extends for 85m and has external horizontal rails, a significant amount of the fence has been stained dark green helps it to blend in with the surrounding landscaping.
12. The Council considers that the fence has significantly altered the character of the road, removing views into the woodland and vegetation which had grown in amongst the previously existing fence, but I have limited evidence before me to demonstrate this. Furthermore, a tall fence is not an unusual feature on a road frontage and its visual impact is softened by its position largely behind landscaping and its dark green colour. Therefore, the fence is not intrusive and does not harm the rural character of this part of Commonsides.
13. Consequently, I conclude that the development does not harm the character and appearance of the area. It complies with Policy 37 of the Local Plan which requires developments to be of a high standard of design and respect important landscape features.

Other Matters

14. The site lies within the Keston Village Conservation Area, the significance of which derives from the historic development of the settlement with cottages facing onto Hayes and Keston Common. The appeal property is designated as a locally listed building and positively contributes to the conservation area due to it being a period dwelling which faces Hayes Common. As the new fence is not directly outside the property and given its location mainly behind vegetation and its colour, I conclude that the proposal preserves the character and appearance of the conservation area.

Conditions

15. A condition requiring the dark green staining of the remaining part of the fence and retaining this colour for the whole fence is necessary in the interests of character and appearance. The appellant and the Council have agreed to this condition.
16. The Council indicates that standard conditions relating to time limits, matching external materials and carrying out the development in accordance with the approved plans should be imposed. However, these are not necessary given that the fence is already in place and the condition relating to the dark green staining of the fence referred to above.

Conclusion

17. For the reasons given, I conclude that the proposal accords with the development plan and the Framework, and therefore the appeal is allowed.

A Wright

INSPECTOR