



Appeal Decision

Site visit made on 23 November 2023

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2023

Appeal Ref: APP/P1133/D/23/3328139

Westhaven, Milbury Farm, Exminster, Devon EX6 8AT

- 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 Paul Jory against the decision of Teignbridge District Council.
 - The application Ref 23/00450/HOU, dated 10 March 2023, was refused by notice dated 1 June 2023.
 - The development proposed is new boundary walls, railings and fencing to existing dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the Council made its decision, on 5 September 2023, a revised version of the National Planning Policy Framework (the Framework) has been issued. However, the only substantive revisions relate to national policy for onshore wind development in England, and the changes to national planning policy do not materially affect this appeal. I have taken the Framework into account in reaching my decision.

Main Issue

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

Reasons

4. The appeal site is a detached bungalow occupying a corner plot with a side (west) elevation towards Main Road. The front (south) elevation faces a private road, which provides vehicle access to the site, and a cycle path passes along the other side. The property backs on to open land at the edge of the settlement. A relatively modern housing development at Milbury Farm Meadow lies to the south.
5. Main Road within the vicinity of the appeal site is enclosed by a stone retaining wall with sloping ground and vegetation above. A section of the appeal site is open above the retaining wall, which means that views into the garden can be achieved from the road. There is space around the bungalow, which is set back from the road and the cycle path, and it has open boundary treatments. These factors contribute to a sense of spaciousness to the road and path, and combine to create a pleasant, verdant setting at the settlement edge.
6. In contrast, whilst the stone wall alongside Main Road would be retained, a fence in this location, where there are few examples of timber fencing, would

jar with the existing material palette. Moreover, the proposed fence above the retaining wall would be conspicuous, even though it would be set back. Due to its prominence, height and close boarded design the fence would stand out as an unusual feature in its immediate context, detracting from the character and appearance of the area.

7. Although there is a context of more recent residential development at Milbury Farm Meadow, the dwellings are set back from Main Road behind a tree lined earth bank. Garden enclosures tend to be unobtrusive from Main Road in the vicinity of the appeal site.
8. As a corner plot, the boundary of the dwelling is extensive. The enclosures proposed would be highly visible and draw the eye, particularly in views from Main Road and the cycle path. Due to the local topography, the front enclosure would appear considerably higher than other enclosures and would contrast with the generally discrete boundary treatments in the vicinity.
9. The east fence would bring a long, tall and enclosed boundary close to the edge of the cycle path, creating a dominant feature in this location which would harm the character and appearance of the area. Whilst a section of the fencing would be lower and the south boundary would incorporate railings above a wall, it would not diminish the dominance of the feature or its appearance as a discordant feature in this location and harmfully erode the spaciousness that currently exists along the path and road.
10. The appellant has offered to paint the fence. However, this would not overcome the incongruity of the fence by reason of its height and position. The appeal proposal would enclose the garden and provide a safe and secure enclosure. However, no evidence has been provided to show that this is the only way of achieving the safety and security required by the appellant, and this does not address nor overcome the incompatibility of the proposed development.
11. Although planning permission has previously been granted for new boundary treatments, this was of a different design to the appeal scheme. For example, this included a 1.2 metre high railing fence and a hedge to the west boundary, and railings above a retaining wall along the east boundary. Thus, the approved scheme would have a different means of enclosure, including in terms of its height, material and solidity, and would maintain a sense of spaciousness to the road and cycle path.
12. I am referred to examples of fencing elsewhere. However, these examples are located with a different context further along Main Road. Moreover, I cannot be certain that these examples as highlighted by the appellant benefited from planning permission. In any case, I have considered the appeal on its merits and the other examples do not address nor justify the incongruity of the fence subject to this appeal.
13. Even though the appellant considers only part of the site lies within open countryside, Policy S22 of the Teignbridge Local Plan 2013-2033 (May 2014) (the LP) and EXM2 of the Exminster Neighbourhood Development Plan 2013-2033 (March 2015) (the NDP) would be applicable in this instance. The proposal to include the whole appeal site within the settlement boundary within the draft Local Plan is afforded limited weight, given the draft status of the plan. Nevertheless, the principal dispute between the parties is the effect of the proposal on the character and appearance of the area.

14. Therefore, to conclude on the main issue, the proposal would harm the character and appearance of the area. It would not comply with Policies S1, S2, S22 and WE8 of the LP, Policies EXM2 and EXM3 of the NDP which, together amongst other things, seek high quality development that maintains or enhances the character and appearance of settlements and street scenes, and conserves existing visual landscape quality. There would also be conflict with the Teignbridge Design Guide where it seeks to avoid boundary fences on top of retaining walls where they are visible from public areas.
15. For similar reasons, the proposal would also be contrary to Policies of the Framework which seek to ensure high quality design as set out in Chapter 12.

Other Matters

16. I acknowledge that the appellant has indicated that an alternative proposal including a lower height fence would be considered. However, that is not the proposal before me. Therefore, I have considered the proposal on its own planning merits.
17. The proposal would repair and maintain an existing stone wall, thus retaining a characterful feature of this part of the road, and this benefit attracts positive weight. However, this is insufficient to overcome the identified harm to the character and appearance of the area. The proposed development is contrary to the development plan when considered as a whole and there are no reasons identified to determine the appeal other than in accordance with development plan policy.
18. The appellant has highlighted the conduct of the Council, however, how the application was dealt with does not affect my decision.

Conclusion

19. For the reasons given above I conclude that the appeal should be dismissed.

J White

INSPECTOR