

Appeal Decision

Site visit made on 18 January 2024

by G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 02.02.2024

Appeal Ref: APP/E3335/D/23/3330191

Acelies, Bristol Road, Rooksbridge, Axbridge, Somerset, BS26 2TA

- 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 Pawel Bodziarczyk against the decision of Somerset Council.
 - The application Ref 24/23/00005, dated 9 March 2023, was refused by notice dated 5 July 2023.
 - The development proposed is the erection of fence wrapping around the Western, Northern and Eastern boundary with access gates, to replace existing fencing.
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Decision

1. The appeal is dismissed.

Preliminary and procedural matters

2. The appellant expresses concern that the Council did not upload the correct application form onto its system. He therefore submitted 2 copies of application forms as part of the appeal documentation, each carrying the planning portal reference PP-11049153. The section in the form entitled '*Description of the proposed works*' contains a lengthy description which is also part justification.
3. The Council adopted a briefer description in its decision notice. It is reasonably accurate other than the appellant, according to his description, proposes two access gates at the front – one for pedestrians, the other a sliding gate for vehicles, although no detail of the sliding gate is shown on the drawings. Subject to a single amendment in respect of the gates and in the interests of brevity the description of the proposed development used in the Council's decision notice is adopted in this decision.
4. The appeal property's name is spelt differently in various documents including the land registry documentation; application form; Council decision notice and plans. I have adopted that most commonly used.
5. The Council's 4th reason for refusal refers to a dispute between the appellant and Highway Authority as to who owns and/or controls that part of the application site closest to the adjacent A38's carriageway. It is not part of my tasks to settle disputes of this nature. Accordingly, I shall determine the appeal on its planning merits.

Main issues

6. The main issues are the effect of the development on (a) the character and appearance of its surroundings, and (b) on highway safety.

Reasons

Character and Appearance

7. The appeal property is a detached dwelling sited on the southern frontage of the A38 within this small village. Immediately to the east and west on the same side of the road are fairly recently built terraces known as The Forge and Chestnut Cottages respectively. Both sets of terraces are fronted by a grass verge, which assists in engendering a sense of openness along this part of the A38. That openness is also apparent in front of the appeal property, notwithstanding the absence of greenery.
8. The appellant proposes to enclose much of the open land in front of his house. The means of enclosure would largely be of solid construction with horizontal timber fencing boards set on a plinth and inlaid between pillars, which would be almost 2m high. The feather edged fence seen at the side of the property, which is also around 2m high, would be extended along the flank frontage of 1 Chestnut Cottages towards the A38's carriageway.
9. To my mind, the new enclosure arrangement, if built, would project incongruously towards the A38, materially detracting from the open character of this part of the A38's frontage. It would cause material visual harm, not because of its inherent design and appearance, but because it projected excessively and impinged on an otherwise open frontage in this part of Bristol Road. The appellant has pointed to what he regards as examples of prominent front enclosures elsewhere, but none of the examples provided to my mind justifies the erection of a harmful feature such as that proposed.
10. Accordingly, I find that the proposal is in material conflict with those provisions of policy D2 of the Sedgemoor Local Plan (LP) requiring the design of new development to be of a high quality demonstrating its contribution to achieving an attractive street scene.

Highway safety

11. My day-time site visit took place during off-peak hours, and I noted that, even so, the A38 was relatively busy, with a fair number of commercial/heavy vehicles. The site falls within an area subject to a 30mph limit, but it appeared to me that this was probably exceeded by some vehicles passing the site when I visited.
12. Immediately to the west of the appeal site is an access serving the parking facilities of The Forge. A short distance to the east is an access serving the Chestnut Cottages' parking area. Immediately opposite is the junction of Chapel Road with the A38, which serves several dwellings on Chapel Road. Accordingly, this short stretch is subject to multiple turning movements on and off the A38, where the need for safety is paramount.
13. The appellant has produced a plan purportedly based on the visibility standards adopted by the Highway Authority¹, which are themselves based on *Manual for Streets*. I use the word purportedly advisedly because the plan produced appears to be a blow-up of an OS based plan and does not contain a single

¹ Standing Advice for Planning Applications Somerset County Council 2022.

annotated dimension either as to the 'x' or 'y' distances mentioned in the Standing Advice.

14. Even so, the visibility splay shown to the east for drivers emerging from the appeal site's modified access clips the front garden of 1 Chestnut Cottages. The appellant does not therefore have control of the land contained in this visibility splay and could not therefore prevent an obstruction to sight being placed or grown there.
15. In addition, insufficient space is provided for vehicles to stand clear of the highway to enable vehicles to enter the site when the sliding gate was shut. This could result in inappropriate manoeuvres putting the safety of highway users at risk.
16. Accordingly, I find the new access provisions proposed to be inherently unsafe where local traffic conditions and multiple access points call for the adoption of a precautionary approach where nationally and locally applied standards should be strictly applied. The proposal therefore conflicts with those provisions of LP policy 14 since it would not enhance road and personal safety.

Other matters

17. I note the appellant's reasons for pursuing the proposals but these do not outweigh the objections that I have found. I have noted the views of the several local residents who commented on the scheme, and my decision reflects the fact that I agree with the thrust of most of the comments made. I have also noted the comments made by the Parish Council, although judging from its later comments, it appears now to be in agreement with the Highway Authority's stance.
18. All other matters raised in the representations have been taken into account, but no other matter raised is of such weight as to outweigh those matters which led me to my conclusion.

G Powys Jones

INSPECTOR