



Appeal Decision

Site visit made on 9 November 2023 by T Bennett BA (Hons) MSc MRTPI

Decision by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 February 2024

Appeal Ref: APP/P4415/W/23/3324930

76 Union Street, Harthill, Rotherham S26 7YH

- 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 Sarah Hall against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2022/1734, dated 17 November 2022, was refused by notice dated 23 June 2022.
 - The development proposed is described as '73cm wrought iron fence on top of existing road side wall'.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The fence that is the subject of this appeal has already been erected. This appeal therefore seeks retrospective permission for the development.
4. I have used the description on the planning form however I have removed the words 'needing this due to the garden being raised on my side to head height on the road side, making it unsafe for my children and dogs' as this is not a description of development. However, I have taken these matters into account as part of my assessment of the appeal.
5. The reason for refusal on the Council's decision notice refers to a gate. I noted a gate of similar design to the fence subject of this appeal on my site visit. However, the gate is not referenced on the descriptions of development on the application form or the decision notice. Therefore, my assessment has been made on the basis of what has been specifically applied for, that being a fence.
6. Following submission of the appeal, the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. The parts of the Framework most relevant to the appeal have not substantively changed from the previous version. Consequently, this update to national policy does not fundamentally alter the main parties' cases or prejudice their position at appeal, and it is not necessary to seek further comments.

Main Issues

7. The main issues are:

- (a) whether the development preserves or enhances the character or appearance of the Harthill Conservation Area (CA); and
- (b) if there is any harm identified under main issue (a), whether such harm is outweighed by the personal circumstances put forward by the appellant.

Reasons for the Recommendation

Character and appearance of the CA

- 8. The appeal property is a two-storey stone cottage that lies within the CA. The significance of the CA includes the age and fabric of the buildings and boundaries which give the village a strong and cohesive traditional character. Union Street is a main road running through the centre of the village and is characterised by stone cottages, bordered by low-level stone walls, some with hedging set behind them. The appeal property has a substantial boundary running adjacent to the highway, defined by a low stone wall which is consistent with the distinctive characteristics of the CA.
- 9. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. In this respect national policy on heritage assets, which includes conservation areas, is set out in the Framework. At paragraph 203, it sets out matters which should be taken into account including sustaining and enhancing the significance of the heritage asset and the desirability of new development making a positive contribution to local character and distinctiveness.
- 10. The appellant has not provided a Heritage Statement and this conflicts with the requirements of Policy SP43 (Conserving and Recording the Historic Environment) of the Rotherham Local Plan Sites and Policies (2018).
- 11. Moreover, the wrought iron fence which has been installed on top of the host property's stone wall has a thick box profile and incorporates oak composite cladding. Consequently, it has a modern appearance and appears prominent on top of the wall. Furthermore, the use of oak-effect cladding is at odds with the natural palette of materials prevalent in the CA. For these reasons, the fence unduly draws the eye, appearing as a stark and incongruous feature that unacceptably erodes the character and appearance of the CA.
- 12. Whilst I did observe one example nearby of metal fencing fixed to the top of a stone wall, such features are not a common characteristic of the CA. Furthermore, those particular railings have a slim profile and of a more traditional design. Therefore, they are not comparable to the appeal proposal.
- 13. For the reasons set out above, the proposal fails to preserve or enhance the character or appearance of the CA and results in less than substantial harm to the significance of the CA. Paragraph 202 of the Framework states that such harm should be weighed against the public benefits of the proposal. The appellant suggests that the boundary treatment is required due to their garden being raised relative to the road level and so is necessary for safety and security purposes. However, these do not amount to public benefits that

outweigh the harm identified nor, more specifically, do they justify the incongruous design of the proposal.

14. I conclude, the development does not preserve or enhance the character or appearance of the CA. In that regard, it conflicts with the design, character and conservation requirements of Policies CS23 (Valuing the Historic Environment) and CS28 (Sustainable Design) of the Rotherham Local Plan Core Strategy (2014) and Policies SP41 (Conservation Areas), SP43 (Conserving and Recording the Historic Environment) and SP55 (Design Principles) of the Rotherham Local Plan Sites and Policies (2018) and the Framework.

Personal circumstances

15. Paragraph 12 of the Framework confirms amongst other things that the development plan is the starting point for decision making and where a planning application conflicts with an up-to-date development plan permission should not usually be granted.
16. I have carefully considered the medical condition of the appellant, which they argue necessitates the need for the fence. Accordingly, I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity. I have also had regard to the provisions of the Human Rights Act 1998.
17. Whilst I am mindful of the needs of the appellant, it has not been demonstrated that the needs cannot be met by a less harmful scheme. Therefore, the PSED does not outweigh the harm that I have identified, and in the circumstances dismissing this appeal is proportionate and justified.

Conclusion and Recommendation

18. The appeal scheme conflicts with the development plan taken as a whole and the Framework. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. I therefore recommend that the appeal is dismissed.

T Bennett

APPEAL PLANNING OFFICER

Inspector's Decision

19. I have considered all the submitted evidence and my representative's recommendation and on that basis the appeal is dismissed.

M Russell

INSPECTOR