



Appeal Decision

Site visit made on 6 February 2024

by **G Robbie BA(Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 February 2024

Appeal Ref: APP/N4720/D/23/3332476

56 Woodland Road, Halton, Leeds LS15 7DJ

- 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 & Mrs Scott & Nicola Marshall against the decision of Leeds City Council.
 - The application Ref 23/03825/FU, dated 21 June 2023, was refused by notice dated 15 August 2023.
 - The development proposed was described as '*Revised application of (22/ 04450/ FU) for retrospective boundary fencing. Reduction of timber panel fencing with gravel board on front boundary from approximate maximum height of 1.9m to approximate maximum height of between 1.3m at the shoulder of the panel to approximate 1.4m at its highest curve, the gravel board is set in to the ground as to follow the sloping topography of Woodland Road. First fence panel adjacent to 58 Woodland Road reduced as per request of enforcement officer to improve highway visibility. Fencing stained in a recessive colour to blend in with the character and appearance of the surrounding neighbourhood*'.
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Decision

1. The appeal is allowed and planning permission is granted for a fence to front and side at 56 Woodland Road, Halton, Leeds LS15 7DJ in accordance with the terms of the application, Ref 23/03825/FU, dated 21 June 2023, subject to the following conditions:
 - 1) The development hereby permitted shall be retained in accordance with the following approved plans: site location plan @ 1:1250; block plan @1:200; and 'fencing plans facing to Woodland Road: Revision C1).
 - 2) Unless within 1 month of the date of this decision a scheme for the details of the fence colour finish, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority's approval, the fence to front and side shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the fence to front and side shall be removed until such time as a scheme approved by the local planning authority is implemented.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Preliminary Matters

2. The application was originally submitted with the development description set out in the banner heading, above. The Council have given the appeal scheme a usefully more concise description on the decision notice and I note that it refers to the scheme as being retrospective. I saw during my visit to the site and surrounding area that the development had been carried out. I have adopted the more concise development description provided by the Council, albeit with the omission of superfluous wording, and I have determined the appeal on this basis.
3. Other than the driveway opening at the appeal property, the fence runs along its entire street frontage boundary, with a stretch of fence at 90° to the frontage along the front joint side boundary with 58 Woodland Road (no 58). The appellants have stated in their appeal statement that a shorter stretch of fencing, between the appeal property and the adjoining half of the semi-detached property at 59 Woodland Hill (no 59), does not form part of the appeal scheme. Unlike the previous appeal scheme¹, the current appeal scheme plans omit any reference to this shorter section of fence. I have determined the appeal accordingly and have not taken this element of the fence into account in reaching my conclusions. Should the appellants wish to determine the lawfulness of the stretch of fencing omitted from the current appeal scheme it is open to them to apply to have such matters determined under sections 191 or 192 of the Town and Country Planning Act 1990 (as amended). Any such matter would be unaffected by my determination of the matters now before me.
4. I am aware that a previous application for planning permission¹ for a timber panel fence at the front and sides of 56 Woodland Road was refused by the Council and subsequently dismissed at appeal². I have been provided by the Council with a copy of the officer's delegated report and the appeal decision in respect of that scheme. The appellants have confirmed that since the determination of the previous appeal scheme, the heights of the fence have been reduced and it is in this form that the appeal scheme appears before me.

Main Issue

5. The main issue is the effect of the development upon the character and appearance of appeal property and the surrounding area.

Reasons

6. The appeal property is a semi-detached dwelling located in a residential area at a crossroads junction within the estate. Its garden plot, on the inside of the intersection of streets, is wedge-shaped with a long street frontage.
7. Boundary treatments are mixed across the surrounding streets. Typically, these are comprised of low brick walls or hedges, or a combination of both but by no means are they limited to just this type of treatment and no one single style or height predominates. What is broadly consistent, as identified previously by the Inspector in relation to the previous appeal scheme, is that the boundary treatments generally allow the space in front gardens and dwellings to be

¹ LPA Ref No: 22/04450/FU

² N4720/D/22/3310977

appreciated. At a location such as that in which the appeal site lies, where the properties around the crossroads junction are canted within their plots, these factors combine to create a spacious and open feel around the junction, despite a mix of boundary treatments including walls, fences and hedges.

8. Since the previous scheme, I am advised that the fence's height along its street frontage, immediately adjacent to the rear edge of the pavement has been reduced to between 1.3 metres and 1.5 metres in height. Whilst the appellants had previously offered a reduction in height of the fence to 1.7m, what is set out in the current appeal scheme is now a more substantial reduction in height from that initially constructed.
9. The fence still presents a substantial and hard face to the street despite its reduced height, although to my mind its impact in this respect is largely driven by its length rather than its height. Indeed, the fence's overall height along the front is now more modest and the roll-top style provides interest and assists in mitigating the visual effects of its overall length. Whilst the removal of the previous hedge is regrettable and removes an intrinsically soft feature from within the streetscene, I do not consider the height of the frontage length of fence to be harmful to the character or appearance of the appeal property or the surrounding area.
10. The fence was, at the time of my visit to the site, painted in a light grey colour. Whilst an Inspector previously discounted the possibility of a change in its colour (along with a reduction in height), I am satisfied that the matter of colour alone is capable of being satisfactorily and reasonably dealt with by way of an appropriately worded planning condition. A more muted, recessive, colour would overcome the fence's somewhat stark colouration at present and give the fence a softer appearance more akin in colour to the hedges elsewhere.
11. With regard to the side fence between the appeal property and No. 58, its height is tapered for the first panel-length back from the rear edge of the pavement. This satisfactorily limits the visual impact of the fence, notwithstanding the differing ground levels along Woodland Road, particularly given the lower portion of the tapered height aligning with that of the existing brick gate post pier between the two properties.
12. Thus, for the reasons I have set out, the appeal scheme would not result in an intrusive or oppressive form of development as feared by the Council. Rather, I am satisfied that with an appropriately worded condition regarding the final colour details of the fence's colour finish it would be a recessive element within the Woodland Road and Woodland Hill streetscene and consistent with the varied and mixed forms of boundary enclosures found to the fronts of properties.
13. At the height before me, I am also satisfied that it would not compromise the prevailing sense of space around and between buildings within the surrounding area. As such, the appeal scheme does not cause harm to the character and appearance of the appeal property or the surrounding area and there would be no conflict with Leeds Core Strategy³ Policy P10, saved Policies GP5 and N25 of the Leeds Unitary Development Plan (Review 2006) or Policy HDG1 of the 'Householder Design Guide' Supplementary Planning Document (2012).

³ Adopted November 2014, Amendments Adopted September 2019

Together, these policies seek to secure high quality design in new development that is appropriate to context and local setting and that avoids harm to amenity, including visual amenity.

14. I noted the presence of other, more substantial lengths of frontage fencing elsewhere around the crossroads junction of Woodland Road and Woodland Hill. I note too, the Council's confirmation that these examples do not appear to benefit from planning permission. I have, however, determined the appeal on its own merits, and the presence of these fences have not been determinative in reaching my conclusions with regard to character and appearance.

Conditions

15. The Council have set out their suggested conditions on the appeal questionnaire. I have carefully considered these in light of the guidance and advice set out in the Framework and Planning Practice Guidance. I agree that a plans condition is necessary and reasonable in the interests of certainty and good planning, albeit revised slightly to account for the retrospective nature of the application.
16. As the fence is already in place, a time limit condition is not appropriate, whilst the suggested materials condition does not accurately reflect the nature or circumstances of the appeal scheme. I have however imposed a condition requiring details of the fence colour to be submitted and agreed, and thereafter implemented in accordance with those details. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of the colour details of the hereby approved fence. The condition will ensure that the development can be enforced against if the requirements are not met.

Conclusion

17. For the reasons set out above, and having considered all other matters raised, I conclude that the appeal should be allowed.

G Robbie

INSPECTOR