



Appeal Decision

Site visit made on 11 March 2024

by **P. D. Biggers** BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 April 2024

Appeal Ref: APP/U2750/D/23/3334546

Wayside Cottage, 1 Gateforth Lane, Hambleton, North Yorkshire YO8 9HP.

- 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 Benoit Valla against the decision of North Yorkshire Council.
 - The application Ref ZG2023/0690/HPA dated 5 July 2023, was refused by notice dated 26 September 2023.
 - The development proposed is erection of a 1.8m tall wooden fence enclosing the garden of the existing dwelling from Main Road (A63) and Gateforth Lane.
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Decision

1. The appeal is allowed and permission is granted for erection of a 1.8m tall wooden fence enclosing the garden of the existing dwelling from Main Road (A63) and Gateforth Lane at Wayside Cottage, 1 Gateforth Lane, Hambleton, North Yorkshire YO8 9HP in accordance with the terms of the application Ref ZG2023/0690/HPA dated 5 July 2023 and subject to the conditions set out in the schedule below.

Procedural Matter

2. The description of the development on the application was varied by the Council with the agreement of the applicant during determination of the application. I have therefore used the description as set out in the decision notice.
3. In the period since the appeal was submitted the Government has published a revised version of the *National Planning Policy Framework* (the Framework). None of the changes directly affect this appeal.

Main Issues

4. The main issues are whether the proposed development would have a detrimental effect on:
 - The character and appearance of the surrounding area;
 - The significance of the listed building opposite on Gateforth Lane.

Reasons

Character and Appearance

5. The appeal site sits on the south side of Main Road (the A63 through Hambleton). The site is a residential plot occupied by a detached stone and tile built house. The house is accessed off Gateforth Lane but the main garden area to the property fronts onto Main Road. Currently, it is separated from the road by a low stone wall and tree and shrub planting.

6. It has been put to me that there are other examples of frontage fencing which the appellant considers justifies allowing the appeal. From my site visit there is certainly one fence of a similar height and form to that proposed further east on Main Road which is positioned on the frontage on Main Road. However, generally the character of boundary treatment on the Main Road and Gateforth Lane frontages is more one of stone or brick boundary walls, hedging and low fences. I will therefore determine the application on its own merits.
7. The fence would be sited 1.4 metres (4.5 feet) in from the stone boundary wall to the property which would have the effect of setting it behind the tree and shrub line along Main Road and Gateforth Lane. The appellant has recently augmented the existing planting on these frontages with laurel shrubs to increase the soft landscaped screening prior to applying for the fence.
8. The result of this is that the fence would be viewed behind a screen of vegetation. Much of the planting, particularly once the laurel grows, would be evergreen but some is deciduous and therefore in winter the fence would be visible in places.
9. I am satisfied that in views along Main Road and Gateforth Lane, as a result of the landscaping, the proposed fence would not be overly prominent but in two respects any visual impact could be reduced further. First, I note that in response to comments from the Conservation Officer which stated that a vertically boarded, all timber fence would be more visually appealing, the appellant has indicated he would be prepared to amend the design of the fence accordingly. Secondly, I noted on the site visit that for most of the frontage length the garden ground height was higher than that of the footpath along the highway. As the purpose of the fence is presented as a means to screen traffic noise and to create a safe boundary to the garden play area, a height of 1.8 metres measured from footpath level on Main Road and Gateforth lane would be more than adequate to achieve these purposes. This would effectively lower the fence height within the garden. Both this and the design change to all timber would constitute minor detailed amendments which could be easily controlled by conditions reducing any impact of the fence on the street scene.
10. With these amendments conditioned I am satisfied that the proposal would not adversely affect character and appearance and would meet the requirements of Policy SP19 of the *Selby District Core Strategy* (SDCS) and Policy ENV1 of the *Selby District Local Plan* (SDLP) both of which seek a high quality of design.

Significance of the Listed Building

11. Walmesley House, a Grade II listed building at No 2 Gateforth Lane, sits opposite the appeal site on the opposite corner of Gateforth Lane and Main Road. It is a large 2 storey brick and slate, double fronted Georgian house. The frontage is framed by two large specimen evergreen trees which partially obscure it.
12. In the approach along Gateforth Lane from the south the proposed fence on the right of the road set behind shrubs would be peripheral in the setting of the listed building. Similarly, from the west along Main Road the fence, again screened behind trees and shrubs would not be viewed as part of the principal setting to the house. In views from the east along Main Road the fence would be on the left looking towards the frontage of the listed building. Parts of the fence would be visible in the setting but as it will be screened behind trees and shrubs and given all timber construction proposed, coupled with the proposed height condition, any impact on the setting would be minimal. I am satisfied that there would not be

harm to the setting of the listed building or its significance and I note that that was also the conclusion of the Council's professional advisor on conservation.

13. As such, it would not be necessary to demonstrate that public benefits of the development would outweigh harm and therefore I am not persuaded that the Council's second reason for refusal is justified. The appellant has made the point that, in helping to screen the highly coloured plastic play equipment in the garden, there would be a public benefit of the fence to the setting of the listed building. However, in view of my conclusion that there would not be harm to the building's significance, whether or not this is a public benefit of weight is immaterial.
14. For the above reasons I am satisfied that the proposal would not be in conflict with either Section 16 of the Framework or Policy SP18 of the SDCS which seeks to safeguard the historic environment and conserve historic assets.

Other matters

15. The Council has raised concerns regarding the fact that insufficient information has been provided to ascertain the effect of the proposed fence on trees and ecology. However, the fence is to be positioned behind the tree and shrub line which would maximise the benefit of this natural screen and avoid impact on trees and shrubs. Whilst footings for the concrete posts originally proposed may have had a detrimental impact on the tree root plate it would be possible using the all timber fence and posts to avoid any significant impact on the root plate to the trees in particular. Equally, as the appellant also proposes not to fit gravel boards, wildlife would be able to pass freely under the fence. As above, these minor amendments to the construction of the fence are matters that can be conditioned and I am therefore satisfied that any effect on wildlife and trees would be minimal and the proposal would comply with SDCS Policy SP18 and SDLP Policy ENV1 ensuring effective stewardship of the district's wildlife resource.
16. The Parish Council has raised concerns regarding highway safety as a result of the proposed fence and a potential impact on visibility for road users and pedestrians. The appeal property boundary curves around the wide bellmouth entry from Main Road into Gateforth Lane and the existing low stone wall with the fence set back 4.5 feet behind it would not impede visibility at the junction.
17. Equally the fence would terminate on the north side of the existing garden shed well clear of the driveway access into Wayside Cottage and again submitted plans demonstrate that an appropriate visibility splay would be achieved.
18. In any event the Council has proposed conditions regarding the visibility splays and with these imposed there would be no highway or pedestrian safety issues and the proposal would meet SDLP Policy T2 regarding access to roads.

Conclusion and conditions

19. For the reasons above the proposal would be acceptable and the appeal is allowed and permission is granted subject to conditions.
20. I have considered the proposed conditions in the light of the advice in the Framework and *Planning Practice Guidance* and consulted the parties on the proposed additional conditions and no concerns have been raised. A condition requiring development to be carried out in accordance with the submitted plans is necessary in the interest of certainty. However, in view of the proposed amendment for the fence to be an all timber construction including its posts and

without gravel boards it is necessary to impose an additional condition requiring submission of revised details for the Council's approval.

21. In addition, as stated above, to minimise any impact of the fence on the street scene a condition is necessary to control the finished height at 1.8 metres from footpath level on the two roads.
22. The Highway Authority has requested two conditions regarding visibility splays to be added in the interests of securing highway and pedestrian safety. These are necessary to ensure adequate sightlines on Gateforth Lane.
23. Although pre-commencement conditions are generally to be avoided, the proposed condition regarding submission of revised details needs to be pre-commencement. In agreeing to the wording of the condition, when consulted on this, the appellant has agreed to this being a pre-commencement condition.

P. D. Biggers

INSPECTOR

Conditions Schedule

- 1) The development hereby permitted must be begun no later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the submitted documents and the following approved plans: Proposed Site Block Plan and Proposed Elevations Dwg No 01.
- 3) The total height of the finished fence and supporting posts hereby permitted shall not exceed 1.8 metres measured from footpath level on Main Road and Gateforth Lane.
- 4) Notwithstanding condition No 2 [i.e., the condition requiring that the development is carried out in accordance with the approved plans] no development shall take place until details of an all-timber construction of the fence and supporting posts, together with details of ground fixings and proposed colour treatment have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) The development hereby permitted must be carried out in such a way as to ensure that splays are provided giving clear visibility of 26 metres measured to the north along Gateforth lane (Y distance) from a point measured 2 metres down the centre line of the access road from the nearside edge of the carriageway on Gateforth lane (X distance). In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.
- 6) The development hereby permitted must be carried out in such a way as to ensure that splays are provided giving clear visibility of 2.0 metres x 2.0 metres measured down the north side of the access from the nearside edge of the carriageway on Gateforth Lane and along the back edge of the footway of the major road. In measuring the splays, the eye height must be 1.05 metres and the object height must be 1 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.