



Appeal Decision

Site visit made on 26 March 2024

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th April 2024

Appeal Ref: APP/M2840/D/24/3337634

25 Hockney Avenue, Kettering, Northamptonshire, NN15 5UF

- 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 Edward Pick against the decision of North Northamptonshire Council.
- The application Ref NK/2023/0687 dated 20 November 2023, was refused by notice dated 18 December 2023.
- The development proposed is to erect a 1.840m vertical close boarded fence to side and part of rear boundary.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the impact of the proposal upon i) the character and appearance of the area and ii) highway safety.

Reasons

Character and Appearance

3. The appeal site is a two storey, detached, dwelling which stands within a corner plot on the junction of Hockney Avenue and Constable Drive within a residential area. The dwelling itself has frontage onto Hockney Drive and there is an existing ship lap and brick boundary wall, to the side of the property, which fronts onto Constable Drive. The boundary wall runs in a straight line which, due to the curve in the road of Constable Drive, means that there is a triangular shaped grass area, with several shrubs, between the boundary wall and the edge of the pavement on Constable Drive. As a result of the proposals this parcel of land would be enclosed by new close boarded fence. I understand that the land which is proposed to be enclosed falls within the ownership, and control, of the appellant as outlined by the Council and title plan.
4. At the time of my site visit I found that the parcel of land, between the existing boundary fence and the edge of the pavement, is an attractive feature within the street scene providing a soft edge and greenery which positively contributes to the street scene. I found there is a general absence of solid boundary walls, or fencing, which stand immediately adjacent to the back edge of the public footway in a similar manner to that proposed. An exception to this, as highlighted by the appellant, is the property opposite the appeal site (1 Hockney Avenue) which I note to have a boundary wall up to the edge of the pavement. I find this is, however, a generally negative feature within the

street scene due to the lack of soft landscaping between the footway and the boundary wall which further emphasises the appeal site as a positive green feature. Such proposals, up to the back of the footway either side of the junction, would be in a prominent location and would cumulatively result in a larger stretch of street scene without soft landscaping. Whilst I note other examples, within the photographs provided by the appellant, I found that the context within which the appeal proposal would be viewed is one which generally lacks solid boundary walls adjacent to the public highway with boundaries being predominantly soft edged contributing to a generally green and open feel around the edge of surrounding properties.

5. As a result of this, I find that the parcel of land in question is an important feature in terms of both the character and appearance of the area and that a solid, 1.84 metre, boundary fence immediately adjacent to the edge of the public footway would be out of character. This would cause harm to visual amenity as a result of the loss of the green and open space widely visible within the immediate area. I acknowledge that there is boundary demarcation along the back edge of the public footpath in places, however, these include hedges and fencing of a lower height which I do not find comparable to impact, and cumulative impacts, of the proposal which is before me.
6. I note that the appellant's deeds to the property may not state that they cannot use the area of land in question freely and put up a boundary fence, however the deeds to the property and any restrictions (or lack of restrictions) in that regard are a legal matter relating to private rights and associated ownership of the land. These are entirely separate to, and do not influence, the requirement for planning permission which falls to be considered against the Local Plan in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004.
7. The proposal would be contrary to North Northamptonshire Joint Core Strategy 2016 (CS) Policy 8(d) which outlines that development should respond to the overall form, character, and landscape setting of the settlement.

Highway Safety

8. I note that the Council, in their reasoning relating to the second reason for refusal, referred to standing advice. The Council have not, however, gone on to provide full copies of the advice which they have referred to, and provided extracts from, nor have they referenced conflict with the guidance in question within the stated reason for refusal. Despite this, from what I saw at the time of my site visit, I find that the proposed fencing would impact upon, i.e. remove, the vehicle to pedestrian visibility splays on the west side of 26 Constable Drive's (no. 26) vehicular access.
9. I find that this would be unacceptable as the drivers of vehicles leaving the driveway of no. 26 would have their vision entirely blocked by the proposed fence, restricting their ability to check whether any oncoming pedestrians could be in their way. I note that this could also be an issue with other examples of boundary treatments, be that fencing, walls, or vegetation, provided by the appellant. Despite this, each case should be considered on its own merits, and I do not find that the potential substandard pedestrian visibility splays on other sites is sufficient to then warrant an allowance of substandard visibility on the appeal site which is before me.

10. In relation to vehicle-to-vehicle visibility from the centre point of Hockney Avenue road junction with Constable Drive, I find it more difficult, in the absence of plans specifically prepared to demonstrate this, to ascertain whether vehicle-to-vehicle visibility would be compromised. I understand, from the Council's delegated reports, that they too could not definitely conclude whether the proposal would breach the local highway authority standards in the absence of further information. Despite this I find that the second refusal reason is, in any case, specific in its reference to compromising vehicle to pedestrian splays - not vehicle to vehicle splays from the junction.
11. I note, in relation to refusal reason two, that the appellant references Manual for Streets and in particular (albeit no further documentation has been provided) a diagram showing a minor road meeting a main road at the outside of a curve which is stated to correspond with the appellant's situation. The proposal may not prevent visibility along the footpath itself, however, it would prevent visibility of cars and vehicles exiting no. 26 as outlined above. I find that this would result in an unacceptable impact to highway safety with regard to the vehicle to pedestrian visibility splays.
12. Even if I considered the proposal was acceptable in terms of vehicle-to-vehicle visibility with reference to the centre point of Hockney Avenue (road junction with Constable Drive) the appeal would still fail due to the findings relating to vehicle to pedestrian visibility, as outlined above, as well as the findings of the first main issue with regard to character and appearance of the area. The proposal would be contrary to CS Policy 8(b) which outlines that development should prioritise the needs of pedestrians and resist developments that would prejudice highway safety and ensuring a satisfactory means of access in accordance with adopted standards.

Other Matters

13. I note the appellant's comment that the only communication received was regarding collating necessary documentation and that they were not made aware of any potential reasons for refusal being negated during the application process. The handling of the application itself is not a consideration within the determination of this appeal and the appeal is not accompanied by an application for costs in this case. Notwithstanding this, I have considered the proposal on its own merits and made a determination based upon the Local Plan as the starting point for determination as previously outlined within this decision letter.
14. I note that the appellant states that the intended use of the land in question is for fruit and vegetable growing and that this would improve the economic, social, and environmental conditions of the area. Further benefits in relation to wildlife are also stated and acknowledged. Despite this, sustainability, as outlined within the National Planning Policy Framework 2023, has three main elements and these are not to be considered in isolation. As a result of the proposal causing harm to the character and appearance of the area, combined with issues as to pedestrian/vehicle visibility, the proposal cannot, overall, constitute sustainable development.
15. Other examples do not set a precedent, it falls to consider each case on its own merits and whilst the proposed fence is acknowledged to be at the same height as the existing garden wall, the location, at the back of the footway, would result in uncharacteristic development. I note an objection to this proposal,

however, I have dealt with matters relating to visibility in the main issues above and there is no evidence suggest that there are any restrictive covenants in place as suggest requiring open space to be permanently maintained.

Conclusion

16. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR