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# Appeal Decision

Site visit made on 14 May 2024

**by U P Han BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 3 June 2024**

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**Appeal Ref: APP/Y3425/D/24/3341925**

**Moorfields Cottage, Goosemoor, Church Eaton ST20 0BD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Miss Nicola Brookes against the decision of Stafford Borough Council.
  - The application Ref is 23/37496/HOU.
  - The development proposed was described as “retrospective planning application for the erection of a fence over 1 metre above ground level adjacent to a highway”.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Reference to “retrospective” in the description of the application is not a form of development. The application form confirms that the development has been completed and I was able to see this during my site visit.
3. The appellant has pointed to inaccuracies within the Officer Report relating to the location and description of the appeal site and its surroundings. I have noted these inaccuracies and was able to see the appeal site and surroundings during my site visit. I have thus determined the appeal on this basis.
4. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales became “National Landscapes”. The appeal site therefore now falls within the Cannock Chase National Landscape (CCNL). However, the legal designation and policy status of AONBs is unchanged, so I have used both terms where relevant.
5. On 26 December 2023, Section 245 of the Levelling-Up and Regeneration Act (LURA) amended the duty on relevant authorities in respect of their interactions with statutory purposes of AONBs, as set out in Section 85 of the Countryside and Rights of Way Act 2000 (as amended) (CRWA). In so far as it relates to this appeal, the amendment now requires relevant authorities “in exercising or performing any functions in relation to or so as to affect land in an AONB...to seek to further the purpose of conserving and enhancing the natural beauty of the AONB” [my emphasis].
6. There are currently no regulations or guidance to assist, but the explanatory note to the LURA states “The clause strengthens the duty on certain public authorities when carrying out functions in relation to these landscapes to seek to further the statutory purposes and confers a power to make provision as to how they should do this.” As such, it is incumbent upon me to evidence

consideration of possible ways to further the purpose of conserving and enhancing the natural beauty of the AONB and CCNL. I have therefore taken this into consideration in my determination of the effect of the proposal in respect of the Council's second reason for refusal regarding character and appearance. However, I did not liaise with the main parties regarding this point, as it would not have altered the outcome regarding the harm caused to the character and appearance of the area.

## **Main Issues**

7. The main issues are the effect of the development on:

- highway safety; and
- the character and appearance of the area, including whether it would conserve and enhance the natural beauty of the Cannock Chase Area of Outstanding Natural Beauty and National Landscape.

## **Reasons**

### *Highway safety*

8. The appeal site comprises of a two-storey dwelling with a garden to the north and parking area and garage to south. The western elevation of the dwelling is close to and fronts on to Goosemoor. This is a narrow single track lane with high hedges on both sides. The appeal site is accessed from Goosemoor and during my site visit I noted three circular safety mirrors, two at the entrance of the driveway of the site and one directly opposite in the highway.
9. The development is for a solid wooden fence with a trellis-like design at the top. The fence defines part of the western boundary of the site and is next to the highway. It continues around the south of the dwelling demarcating the driveway and ends adjoining a small outbuilding.
10. The height and location of the fence does not allow for acceptable visibility for vehicles accessing and egressing the site. The south-west corner of the fence severely restricts visibility for vehicles exiting the drive and passing in Goosemoor due its height and positioning.
11. I appreciate that there is disagreement as to whether mirrors can be relied upon to provide visibility. However, their contribution to road safety is likely to be affected by, amongst other things, glare from the sun or headlamps, bad weather, and dirt from the road.
12. The appellant has indicated that the fence could be angled back at the south-west corner to improve visibility. As the details for this have not been provided and it is unclear where the fence would need to be positioned, there is insufficient evidence before me to assess whether this would appropriately address the highway safety issues referred to above.
13. For the reasons above, I conclude that the development has an unacceptable and detrimental impact on highway safety. Consequently, it conflicts with Policies T1 and T2 of the Plan for Stafford Borough (PFSB), which seek to improve highway safety and not to materially impair it, and to ensure safe and adequate means of access and egress.

### *Character and appearance*

14. The appeal site is located in a rural agricultural area with open fields running directly up to the highway. The surrounding area is predominantly open countryside with a handful of sporadic dwellings. However, the openness of the countryside can only be appreciated by intermittent gaps in the vegetation or changes in levels.
15. The fence runs next to the highway along the entire western boundary of the house and part of its garden. Thereafter, the boundary treatment northwards is formed by hedges, similar to those either side of Goosemoor.
16. While the fence is only visible from within its immediate locality, the use of solid timber over some distance along the frontage of the site means it is, nevertheless, conspicuous and incongruous within its verdant surroundings and harmful to the appearance of the street scene of Goosemoor. The effect of painting the fence green or growing climbers on it would not overcome its incongruity and would be visually inharmonious with the character and appearance of the surrounding area.
17. The height of the fence is similar to the hedges found to either side of Goosemoor. In that sense, the way in which it encloses the carriageway has not amounted to a harmful change to the openness of the countryside beyond its immediate setting. Despite the absence of harm to the openness of the countryside, the fence does not conserve and enhance the natural beauty of the wider AONB/CCNL, as required the CRWA, as amended by LURA.
18. The appellant has drawn my attention to other similar fences nearby. I have taken this into account in terms of any influence on the character and appearance of the area, so far as I am able to, based on the information before me. Even so, their existence does not provide justification for the development and I have considered this appeal proposal on its own merits.
19. For the reasons above, I conclude that the development has a harmful effect on the character and appearance of the area and would fail to conserve and enhance the natural beauty of the AONB/CCNL. Hence, it would conflict with Policy N1 of PFSB which requires development to have regard to the local context, and to preserve and enhance the character of the area including the use of locally distinctively materials.

### **Other matters**

20. While I note the submissions that Cannock Chase National Landscaping Partnership, Church Easton Parish Council and neighbours have not objected in principle to the fence, this is not a reason in itself to allow development which would be harmful. The appellant has made comments in relation to the competence of the Council's planning officer in assessing highway safety. This is not a matter for my deliberation in the context of a planning appeal.

### **Conclusion**

21. For the reasons given above the appeal should be dismissed.

*U P Han*

INSPECTOR