



Appeal Decision

Site visit made on 21 June 2024

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th July 2024

Appeal Ref: APP/E2205/D/24/3340847

Cherry Orchard, Bower Lane, Mersham, Kent TN25 6NW

- 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 Andrew and Philippa Strover against the decision of Ashford Borough Council.
 - The application Ref is PA/2023/1478.
 - The development proposed is 2m North East and North West boundary fence following the removal of an existing Leylandii hedge.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue raised by this appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

3. The site occupies a corner plot adjacent to Bower Road and Cherry Glebe. Leylandii hedging runs along the boundaries of the site. However, along Bower Road there is a gap in front of the leylandii where a native hedge runs along the grass verge immediately in front of the leylandii.
4. Many of the properties in the area have open frontages, although some along Bower Road are enclosed by vegetation and a small number host fences, though those generally are not of the height and form proposed here. The general openness and/or vegetated nature of the frontages creates a sense of place to this residential area. These create a distinctiveness to both the character and appearance of the area. Whilst fences exist in the locality these are not an overriding characteristic.
5. The closeboard fence would run along the Bower Road and Cherry Glebe boundaries. Being 2m in height, reducing in part to 1.5m along Chery Glebe, this would be a substantial feature around the appeal site and would be clearly visible in views from the public realm. The proposed fence would be a tall, visually impermeable and visually dominant structure in a highly prominent location. Its urbanising form would be out of keeping with the character and appearance of the area. As such, it would be visually harmful as it would erode the distinctive qualities of the locality.

6. I acknowledge that the existing hedge is taller than that of the proposed fence. However, this vegetation offers a landscaped appearance to the site that is more visually pleasing than that of the appearance of a closeboard fence.
7. The intention is to retain the hedging along Bower Road that is located upon the grass verge in front of the leylandii hedge. That hedge does not form part of the red line boundary of the appeal site and I understand that land is not in the ownership of the appellants. There is no certainty that the existing hedge along Bower Road could be retained. As such, this cannot be relied upon to mitigate the visual harm along Bower Road and offers little weight in support of the proposal.
8. I have been provided photographs of examples of fences in the wider area. I accept that there are fences within the wider locality, such as, at the entrance to the village outside the Brabourne property, New House on The Street and at Mersham Manor, along Church Road, at the foot of Cherry Glebe and further along Bower Road, amongst others. However, these examples are not in the immediate environs of the appeal site where there is a distinctiveness to the character and appearance of the area. This proposal can and should be considered on its individual merits taking the surrounding context into consideration. Those other examples elsewhere offer little support in favour of the proposal.
9. Other photographs show fences, however, those relate to structures in other villages. Notwithstanding this, I acknowledge some of those pictures are of enclosed private gardens where those outdoor living spaces abut public highways. Whilst the examples may relate to a similar type of development as proposed here, the acceptability of those other developments will depend on the individual circumstances of those sites.
10. The existing hedge has provided security and privacy for the family over many years, noting that the hedge encloses the rear garden of the property. It has been advised that the hedge is dying. Photographs have been provided that show gaps in the hedge. Further to this, vehicles and pedestrian movements along the road have increased with the uplift in numbers of houses being built in the area. Vehicles parking abutting the site has also increased. The appellants' dogs have become more vocal and upset by passers-by and people parking along the road to the junction of Cherry Glebe, detracting from the appellants' ability to enjoy their garden.
11. A fence would provide security and privacy to the site, which would be a benefit for the appellants. This would be an immediate solution as a replacement hedge would take many years to grow. Until a hedge establishes the outdoor living environment would be more exposed to public views and activity that may upset the appellants' dogs. Whilst I sympathise with the personal circumstances of the appellant, I am mindful that the harm identified would be permanent and this would not be outweighed by the appellants' particular circumstances.
12. No highway objection has been raised and there is Parish Council and local support for the proposal. Whilst this may be so, this does not make an unacceptable development acceptable or justify the proposed development.
13. For these reasons, I conclude that the proposed development would be harmful to the character and appearance of the area. The proposal would, therefore

conflict with Policies SP1 and SP6 of the Ashford Borough Local Plan (2030) and the provisions of the National Planning Policy Framework. These policies seek, amongst other matters, careful consideration of development proposals, which includes consideration of an area's character, distinctiveness and sense of place.

Other Matters

14. I have taken into account the human rights issues relevant to this application. An appropriate balance would be achieved between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties). The degree of interference that would be caused would be insufficient to give rise to a violation of the rights. Whilst the Human Rights Act covers other matters, those referred to above are those most pertinent to the proposal that is before me.
15. Some concern has been raised about the Council's processing of the planning application, communications with the appellants, conduct at its committee meeting, as well as information provided relating to potential enforcement matters. However, those are matters that, if necessary, should be raised with the Council separate to this appeal. In any event, those concerns would not lead me to alter my findings above.

Conclusion

16. Having regard to the above findings, the appeal should be dismissed.

Nicola Davies

INSPECTOR