



Appeal Decision

Site visit made on 9 July 2024

by Sarah Colebourne MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2024.

Appeal Ref: APP/P2745/W/24/3342697

Four Winds, Weeland Road, Eggborough, Selby, DN14 0PW

- 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 Luke Heron against the decision of North Yorkshire Council.
 - The application Ref is ZG2024/0049/HPA.
 - The development proposed is described as 'Retrospective application for timber fence to boundary edge'.
-

Decision

1. The appeal is dismissed.

Procedural matter

2. Within the context of an appeal under section 78 it is not within my remit to formally determine whether the proposed development requires planning permission as questioned by the appellant. However, I shall consider the evidence as to whether permission is required so far as it is material to this appeal. If the appellant wishes to ascertain whether the development is lawful, they may make an application under section 191 of the Act.
3. The appellant considers that if the fence is 1m back from the highway it is classed as permitted development. The General Permitted Development Order 2015 states that 'development is not permitted by Class A if the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed 1 metre above ground level.' It does not refer to a set back from the highway. 'Highway' is not defined in the GPDO for those purposes. Section 336 of the Town and Country Planning Act 1990 (as amended) defines the term by reference to the meaning within the Highways Act 1980. The interpretation section of the 1980 act says that 'highway' means the whole or a part of a highway other than a ferry or waterway. In this case, the fence is adjacent to the grass verge on Weeland Road which the Council says forms part of the highway and I have no reason to disagree with that. I have considered the appeal on this basis.

Reasons

4. The main issues in this appeal are the effect of the proposed development on:-
- the character and appearance of the area;
 - highway safety in regard to pedestrians;

Character and appearance

5. The appeal site comprises a detached bungalow on the corner of Weeland Road and High Eggborough Lane within a residential area. The surrounding area is characterised mostly by detached dwellings that are set back from the road behind grass verges and their front gardens. Most properties have open driveways allowing some views into the plot and of the dwellings. Front boundaries are formed predominantly by hedges of varying heights, giving the area a green and leafy suburban character. A few dwellings have open plan front boundaries or low walls and those contribute to the spacious character of the area.
6. The fence which is the subject of this appeal, has been erected around the whole of the appeal site's frontage onto both Weeland Road and High Eggborough Lane, replacing a low hedge. It is formed by close boarded timber in a golden brown finish and is some 1.8m in height. On the High Eggborough Lane frontage, there is a wide, sliding gate of metal and composite materials in a black finish that is some 2.2m in height. On the Weeland Road frontage the fence is set back significantly from the corner and the footway behind a grass verge and adjoins a much lower hedge along the front boundary of the adjacent property, The Bungalow. On the High Eggborough Lane frontage, the fence is sited adjacent to the footway and is separated from the next dwelling in that frontage by a driveway leading to The Bungalow that has a lower height fence along both sides. The next dwelling in that frontage has a timber fence that is lower in height with a hedge behind and a wide gate with an open design.
7. Whilst there are other hedges in the area that are higher, those plots generally have open accesses and have a softness and openness that is lacking at the appeal site. I have noted the examples of high, solid gates in the area referred to by the appellant but have not been told of their planning status and those are generally sited on planted or lower height boundaries.
8. The extensive length of the boundary and its corner position makes it highly prominent in views in both directions along both of those roads. Together, the solidity and height of the fence and gate here completely enclose the plot and neither the front door nor the windows of the dwelling can be seen from the street. This is at odds with the more open character of most properties in the surrounding area. In this location, given the predominance of planting in the other front boundaries, the solid timber of the fence and the solid composite gate contrast starkly with their softer, leafier and more open surroundings and stand out awkwardly in the street scenes of both Weeland Road and High Eggborough Lane.
9. The appellant has offered to paint the fence green but that would not overcome my concerns regarding the materials and solidity of the boundary.

10. I find then that the proposed development by reason of its siting, size, scale, design and materials, causes significant harm to the character and appearance of the area, contrary to development plan policy SP19 of the Selby District Core Strategy (2013) which requires a high quality of design in new development that contributes to the character of the area. It would also be contrary to the National Planning Policy Framework (the Framework) which has a similar objective.

Highway safety

11. The fence and access gate is sited immediately adjacent to the back edge of the footway on High Eggborough Lane. Pedestrians and other footway users, including wheelchair users, are unable to see into the driveway as a result of the solidity and height of the boundary and therefore have little warning of emerging vehicles. There is no footway on the opposite side of this lane and pedestrians would have difficulty in trying to avoid those vehicles.
12. The Council's Highways Officer has objected to the proposal and requested that the fence's height is lowered to 0.6 metres for the first two metres on either side of the gate. Although the appellant says that he could have reduced the fence during the application process, no such amendments were received by the Council and I must consider this appeal on the basis of the plans as determined.
13. I have noted the appellant's point that he could have planted a hedge of the same height but that is not the proposal before me and without the gates proposed here such a hedge would not have the same impact on safety.
14. As such, I conclude that the proposed development causes a significant danger to the safety of pedestrians and other footway users, contrary to development plan policy T1 in the Selby District Local Plan (2005) which requires that proposals are safe. It would also be contrary to the Framework which has a similar objective.

Other matter

15. The appellant says that the fence is needed for the safety of their dogs and children but I am not persuaded that it is necessary and that there is no other means of ensuring their safety that is less harmful in regard to character and appearance and pedestrian safety.

Conclusion

16. For the reasons given above, I conclude that the proposed development is contrary to the development plan and there are no material considerations that would outweigh this. The appeal should be dismissed.

Sarah Colebourne

Inspector