

Appeal Decision

Site visit made on 9 September 2024

by Siobhan Watson BA(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2024

Appeal Ref: APP/N4720/C/23/3336031

1 Creskeld Park, Bramhope, Leeds, LS16 9EZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Yarl Jamieson Christie against an enforcement notice issued by Leeds City Council.
 - The notice was issued on 23 November 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a timber fence and support posts exceeding one metre in height, located adjacent to a highway used by vehicular traffic, which exceeds the height permitted under Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The requirements of the notice are to either: 1. Dismantle the timber fence and supporting posts in their entirety, *or*, 2. reduce the timber fence and supporting posts to a height not exceeding one metre above ground level; 3. Remove any timber and debris as a result of complying with either of the alternatives in Steps 1 or 2 above.
 - The period for compliance with the requirements is: 3 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Main Issue

2. The main issue is whether the fence preserves or enhances the character or appearance of the Bramhope Conservation Area.

Reasons

3. Bramhope Conservation Area is characterised by its rural setting, and its leafy, mature landscaped streets with an abundance of trees, greenery and grass verges. Houses are often in generous plots and stone is a common facing material. The area in the vicinity of the appeal site has a spacious and verdant character.

4. The site is a residential plot on the corner of Creskeld Lane and Creskeld Park. Boundary treatments of dwellings where they front Creskeld Lane, in the vicinity of the site, are generally characterised by hedging and low stone walls. The frontages of dwellings on Creskeld Park are open plan. The mature landscaping of Creskeld Lane and the openness and soft landscaping of Creskeld Park make a positive contribution to the character and appearance of the conservation area.
5. The fence is a tall, long, solid and monotonous structure which appears unattractive and out of place amongst the rich texture of the surrounding stone and landscaped boundary treatments on Creskeld Lane. It is imposing and at odds with the open plan nature of Creskeld Park and it partially screens the mature vegetation behind it.
6. I understand that the site is not mentioned as being of any particular importance within the Bramhope Conservation Area Appraisal and Management Plan. However, the site does not need a special mention for it to enjoy statutory protection under S.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
7. I understand that a previous planning permission at the property allowed for a close boarded fence. However, this would have been in a different position and less extensive. Furthermore, I have no evidence that the height of that fence was ever approved, as required by a condition. The previous permission, therefore, does not justify the existing fence.
8. I have considered the appellant's alternative scheme to move the fence slightly back from the boundary at the corner of the site, so that a landscaping scheme could be planted between the boundary and the highway. Additional shrub planting is proposed for the frontage of the property where it is currently grass. However, the fence would still be close to the road and it would still have the same tall, solid and long nature. It would take some time for planting to establish and although landscaping would soften the appearance of the fence, the long and solid nature of the fence would remain. Therefore, the alternative plan would not sufficiently overcome the harm.
9. The fence fails to preserve or enhance the character or appearance of the conservation area. Given that it only affects a small part of the conservation area, I consider that the harm to the significance of the conservation area to be less than substantial and at the lower end along the scale of less than substantial harm.
10. Paragraph 205 of the National Planning Policy Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance. The Framework advises that less than substantial harm must be weighed against the public benefits of the scheme.

11. The fence provides privacy to the side garden. However, fencing is not the only way to provide privacy. Many properties in the conservation area have hedging to provide privacy.
12. I understand that the property has been subject to a break-in. I appreciate that the fencing enables the occupants to feel safer. However, I have no substantive evidence that the fence genuinely improves security. Fencing can obscure public surveillance of a property.
13. Overall, I find that there are no public benefits which are sufficient to outweigh the less than substantial harm to the conservation area.
14. I conclude that the fence harms the significance of the Bramhope Conservation Area. Therefore, it conflicts with the Leeds Local Plan Core Strategy Policy P10 which indicates that the design of development should be appropriate to its location. It also conflicts with Policies GP5, N19 and N25 of the Leeds Unitary Development Plan, which in combination, seek to ensure that development is appropriate for its environment; that it preserves or enhances the character of appearance of conservation areas; and that boundaries should be appropriate to the character of the area. In addition, it conflicts with Policy HDG1 of the Leeds Householder Design Guide Supplementary Planning Document which also indicates that boundary treatments should respect the character and appearance of the locality.

Conclusion

15. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Siobhan Watson

INSPECTOR