



Appeal Decision

Site visit made on 23 September 2024

by H Marriott MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2024

Appeal Ref: APP/J0540/W/24/3346131

33 Denton Road, Peterborough PE2 8PD

- 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 Mr W R Robertson against the decision of Peterborough City Council.
 - The application Ref is 23/01495/FUL.
 - The development is described on the application form as 'retrospective change of use of land with erection of boundary fence'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's report suggests that the change of use of the land to garden was removed from the description of development. However, the appellant's appeal form confirms that the description of development on the application form has not been amended. I also saw during my site visit that the majority of the fence has been erected on site. I have proceeded to determine the appeal on this basis, including that planning permission is being sought retrospectively.

Main Issues

3. The main issues are:
 - the effect of the development on the character and appearance of the area; and
 - the effect of the development on highway safety.

Reasons

Character and appearance

4. Denton Road is fronted by detached and semi-detached bungalows and dormer bungalows, each with different shaped front gardens following the alignment of the road. Front gardens tend to be open or enclosed by low level means of enclosure. Some corner plots are separated from the footway by grassed areas which provide open space between the footway and their side gardens which are enclosed by fencing. Even though this does not occur on every corner, collectively these open areas provide a green and spacious feel which contribute to the attractiveness of the estate.

5. The appeal dwelling (No 33) is a semi-detached bungalow located on a corner plot at the end of a row of semi-detached bungalows. It contains a mature tree to its side which is now enclosed by the fence which follows the inside bend of the highway. The fence comprises 1.5-metre high concrete posts and 1.2-metre high fence panels. A 0.3-metre high trellis proposed along the top of the fence panels has not yet been installed.
6. In accordance with the requirements of Policy LP23 of the Peterborough Local Plan (2019) (PLP), as a non-designated open space the development is required to meet the relevant policies of the National Planning Policy Framework (the Framework). The appeal site does not fall neatly under the definition of open space set out in the Framework due to its small size and proximity to the road which means that its opportunities for sport and recreation are limited. Nevertheless, Policy LP23 of the PLP also requires development to be accommodated on the open space without causing a significant detrimental impact on the character and appearance of the area.
7. Whilst the appellant suggests that the fence is well presented and constructed from good quality materials, the differing materials and height of the fence is more imposing than the lower brick walls to the front of No 33 and side of 31 Denton Road. As a result of the development, the previously open area of space is enclosed between two lines of fencing which has changed the site's appearance to that of private garden land. It also partially screens the tree reducing its verdant contribution to the street scene. This has resulted in a notable erosion of the spacious characteristics of this part of the estate and its public amenity value to the detriment of surrounding occupants.
8. The appellant has indicated a willingness to amend the height of the fence to 1 metre. The appeal process should not be used to advance a scheme. In any case, a 1 metre fence would still have an unacceptable loss of spaciousness when considered against the development plan. Whether or not such a fence could be erected under permitted development rights is a matter which the appellant could discuss with the Council.
9. I conclude that the development has a harmful effect on the character and appearance of the area. In this regard, the development conflicts with Policies LP16, LP17 and LP23 of the PLP insofar as they require development to positively contribute to the character and local distinctiveness of the area, for loss of non-designated open space to not cause significant detrimental impact on the character and appearance of the area and for loss of public green space and/or amenity space to not result in an unacceptable impact on the amenity of occupiers of nearby properties.

Highway Safety

10. From my observations on site, even though the fence is set back slightly from the back edge of the footpath, the fence reduces lines of sight across the bend for highway users including car users, reducing forward visibility. In this respect, I understand the Council's Highway Control Team's (HC) concerns and there is no contrary technical evidence to demonstrate suitable sight lines are retained and that the development does not increase the potential for vehicle conflicts. Furthermore, whilst I saw no vehicles parked adjacent to the bend during my site visit, it is possible that this could occur, which in combination could further increase the likelihood of such conflicts when drivers navigate a route around the bend.

11. The development does not directly impact on the width of footpath and users of the footpath should therefore be able to pass each other, the same way they do along similar widths of footpath along Denton Road. Whilst a condition could be imposed to create a pedestrian visibility splay to address HC concerns in relation to pedestrian visibility splays out of the existing driveway, I have not sought to seek agreement to such a condition from the appellant due to the other harms I have identified.
12. I conclude that the development has an unacceptable effect on highway safety. In this regard, the development conflicts with Policy LP13 of the PLP insofar as it requires development to allow for the safe and efficient movement of all modes of transport and to ensure it does not result in a residual cumulative severe impact on any element of the transportation network including highway safety.

Other Matters

13. I observed, during my site visit, a short section of high fencing above the wall at 52 Denton Road and a high brick wall with railings at 2 Bythorn Road opposite the appeal site. I have not been provided with any detailed planning history of these fences, which in any case are not the same as the appeal site as they appear to form means of enclosure around gardens rather than open space. Therefore, I do not consider these examples to justify the harm that I have identified in this case.
14. The appellant suggests that the fence reduces the risk of anti-social activities taking place on the site, such as fly-tipping, dog mess and thieves entering the property. I have no evidence to suggest the site is or was regularly subject to such activities. Furthermore, the status of the land as public highway, highways rights, maintenance responsibilities, land ownership and any covenants affecting the site are private matters or matters under other regulatory regimes and their existence or otherwise does not affect the outcome of my assessment of the planning merits of the development in the context of this appeal.

Conclusion

15. The development conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

H Marriott

INSPECTOR