
Appeal Decision

Site visit made on 19 November 2024

by **J Symmons BSc (Hons) CEng MICE**

an Inspector appointed by the Secretary of State

Decision date: 7 January 2025

Appeal Ref: APP/U2750/D/24/3351153

Victorian Studio, Carthorpe Village, Carthorpe, North Yorkshire DL8 2LD

- 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 T Lowry against the decision of North Yorkshire Council.
 - The application Ref is ZB24/01253/FUL.
 - The development proposed is the retrospective application for the approval of a side facing bi-fold door and fence/gates to driveway. Seek permission to replace the front facing glazed screen with new.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the development description shown on the application form as no evidence has been presented to show a change had been agreed.
3. The proposal consists of new bi-fold doors on the dwelling's driveway/patio side elevation, new glazed screens inserted in its front elevation's timber framework and an approximate 1.8 metre (m) high timber fence with 2.2m high timber double gate to the driveway/patio boundary. The bi-fold door and fence/gate elements have already been constructed. I was able to see these on my visit and they accord to the proposed drawings submitted.
4. In the appellant's appeal statement an alternative design to replace the appeal site's fence and gate with a low brickwork wall, hedge and a retractable screen was outlined. However, Section 16 of the Procedural Guide: Planning appeals – England advises that the appeal process should not be used to evolve a scheme. It also advises that it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the local planning authority and by interested parties at the application stage. The alternative design would materially alter the nature of the application and accepting it could prejudice the interested parties. While I appreciate the appellant's personal circumstances, I do not consider there is an exceptional reason for the alternative design to be considered. Accordingly, I have not considered it as part of this appeal.

Main Issues

5. The main issues in this appeal are the effect of the proposal on:
 - the character and appearance of the area; and
 - highway safety.

Reasons

Character and appearance

6. The appeal site is a detached dwelling which has a rear garden and a side driveway/patio. The driveway is accessed off a narrow road which serves a cul-de-sac. The existing dwellings on the road approaching the appeal site have a mix of garden, driveway and grassed verge frontages, with a variety of open and low walled boundary treatments with some including planting and hedges. Once at the appeal site, the road's front boundary treatments change to a more consistent low brick wall topped with metal railings.
7. Although the appeal site is not visible from the core of the village, its fence and gate are highly visible in the street scene and a stark contrast to the other existing boundary treatments. The appeal site's fence and gate do not respect the other existing boundary treatments and appear as an incongruous addition.
8. Fence examples within the surrounding area have been provided to show the mix of boundary treatments that exist and support the fencing used at the appeal site. However, these examples are not directly comparable. The Manor's fence has a more discrete top element to a masonry wall. The Croft Hill fence is not a front boundary but is set back in the plot and has a mix of solid and trellis type fencing which is partly covered by planting. The unreferenced dark frontage fence is shorter in length and is softened by the planting behind it. The other unreferenced fence to a driveway is a side rather than a front fence. All the fence examples are less imposing and visually intrusive in the street scene compared to that of the appeal site. The examples do not justify the visual harm the appeal site's fence and gate has and does not set a precedent for it.
9. The side bifold doors and the proposed front glazed screens were found by the Council to be sympathetic changes which would not impact the originality of the host building or the local distinctiveness of the surrounding area. I see little reason to disagree with this and find these elements do not cause visual harm. However, this does not change the significant harm the appeal site's fence and gate causes.
10. The proposal would harm the character and appearance of the area and be contrary to Policy E1 of the Hambleton Local Plan February 2022 (Local Plan) which seeks, amongst other matters, for new development to be of a high quality which integrates successfully with its surroundings and reinforces local distinctiveness.

Highway Safety

11. The road is narrow and any parking of vehicles on it will cause some obstruction to traffic. However, no evidence is presented that parking on the road is not permitted. Furthermore, there is little evidence provided, other than some interested parties anecdotal comments, that vehicles associated with the appeal site regularly park on the road and cause unacceptable obstruction to other vehicles.
12. While the Council advise that the width of the appeal site's gate is narrow and could discourage use of the driveway, little evidence is provided to support this. The appellant provides evidence showing the driveway is retained and a vehicle can satisfactorily park on it. Evidence is also provided showing that when a vehicle is parked on the road, reasonable space is available to allow other vehicles to pass.

13. Overall, it has not been sufficiently demonstrated that the proposal unacceptably harms highway safety. It would therefore not be contrary to Policy IC2 of the Local Plan which seeks, amongst other matters, for new development to provide appropriate parking and not compromise highway safety.

Other Matters

14. Concerns regarding overlooking of some neighbouring dwellings from the side bifold door were raised. However, while the bifold door can be seen from neighbouring windows, there is little substantive evidence to support the concerns raised. At my visit, I saw that there was good separation to the neighbouring windows and direct sightlines into neighbouring dwelling rooms was not possible. As such, the side bifold door does not cause unacceptable overlooking. However, a lack of harm carries neutral weight in my assessment and does not overcome the harm that I have already identified.
15. In considering the appeal, I have taken into account the representations in support of the proposal. However, as detailed above, I have considered the matters raised and they have not led me to a different conclusion to the harm found.
16. The appellant raises concern that the Council did not take up the offer to visit the site and discuss the proposal following its initial feedback prior to the notice of refusal. However, this is a matter between the parties and does not change the fact that the proposal causes harm.

Planning Balance and Conclusion

17. The proposal is required to meet the appellant's personal circumstances. The Council confirm the appellant has protected characteristics for the purposes of applying the Public Sector Equality Duty arising from section 149 of the Equality Act 2010 and I see little reason to disagree with this. I am therefore required to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not.
18. I have carefully considered the need for the proposal in providing an accessible, safe, and private external space/parking area and its importance in supporting independent living and the mental health and wellbeing of the appellant. However, little substantive evidence has been presented to show that at the application stage an alternative proposal could not deliver similar benefits for the appellant and result in less harm.
19. While the proposal would not harm highway safety, it would significantly harm the character and appearance of the area. As it has not been clearly shown that the appellant's needs could not be provided through a less harmful alternative design, this does not outweigh the significant harm caused to the character and appearance of the area.
20. Accordingly, for the reasons detailed above, and having had regard to other matters raised, the appeal should be dismissed.

J Symmons

INSPECTOR