



Appeal Decision

Site visit made on 9 January 2025

by Eleni Marshall BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2025

Appeal Ref: APP/Y0435/D/24/3348091

1 Higham Cross Road, Hanslope, Milton Keynes, MK19 7FQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Dr Arshad Waheed against the decision of Milton Keynes City Council.
 - The application reference is 24/00795/HOU.
 - The development proposed is erection of a wall with iron grill fence detail (Retrospective).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have utilised the Council's description of the development as per the decision notice as I feel it more concisely describes the development.
3. The National Planning Policy Framework was revised on 12 December 2024 since both the determination of this proposal and the submission of this appeal; however, the key changes are not considered to impact upon the determination of this appeal in relation to the main issues noted below. In addition, the refusal reason before me is based entirely upon policies within the Local Plan.

Main Issue

4. The main issue is the impact of the proposal upon the appearance of the surrounding area.

Reasons

5. The appeal site is a single storey, detached, dwelling which straddles the Hanslope Development Boundary as well as the open countryside. The proposal before me is submitted on a retrospective basis and seeks to retain an existing wall with an iron grill fence detail. At the time of my site visit I found that the appeal stands within an area where the immediate vicinity, and general site context, is that which is rural in both character and appearance. Whilst there are a variety of materials including brick, timber, and hedgerow the boundary features typically found along Higham Cross Road are low, modest/utilitarian, and visually respectful within the rural street scene.
6. The proposal, as a front boundary fence, is highly visible within the street scene and is the last residential dwelling on the southern side of Higham Cross Road with the appeal site adjoining fields. I note that the brickwork has been selected to match that of the host dwelling, however, the use of matching materials is not, in this case, sufficient to overcome the inappropriateness of the cumulative impact of

the proposals before me. The lower part of the wall alone (excluding the columns and the iron grill detailing) I find would be comparable to the other, low height, brick walls and general boundary features found within the vicinity of the appeal site (such as that at the Old Chapel) and would be broadly acceptable within the general context which it would be viewed. The brick pillars, and iron railings, as a combination are not in keeping with the site or surrounding area and I find that they create a visually intrusive, inappropriate, form of development which is unsympathetic to the appeal site's rural context in terms of scale and materials.

7. The choice of materials, and height, of the boundary treatment I do not find to be suitable for the site setting with the proposal resulting in an inappropriate visual intrusion into the rural nature of the existing street scene. I note the inclusion, on the plans, of hedgerow detailing to the front of the fencing, however, notwithstanding this I do not find that the proposal for hedgerow or planting proposals softens the appearance of the fence in question and, furthermore, for the reasons which I have already set out the proposal is uncharacteristic and unsympathetic. Character and appearance are separately defined matters and the proposal is, I find, uncharacteristic even if planting was argued to improve some of the visual implications I have found.
8. I note the content of the appellant's original Design and Access Statement, and the Statement of Case submitted as part of this appeal, which sets out the appellant's reasoning for construction of the fence in question. Both documents contain photographs of boundary treatments which are stated to be of properties around the area with high wall boundaries, however, these come with no confirmed location or context. At the time of my site visit, I found no evidence of boundary treatments of the nature shown in the photographs provided within the vicinity of the appeal site and it is the vicinity of the appeal site within which the proposal would be viewed in terms of basic context. The proposal would, for the reasons set out, be contrary to, and inappropriate, in the context of the surrounding area, which is rural in nature and characterised by modest, low level, front boundary treatments.
9. I note the commentary provided by the appellant in relation to their relationship with their neighbours, however, I find it would be inappropriate to allow proposals based upon claims made by one party which are, essentially, private disputes which are not a material planning consideration. Whilst the wall may be within the boundaries of the title deeds, and thus within land ownership of the appellant, I have no evidence before me to support that, prior to construction of the boundary treatment in question, there was also a 2-metre fence in place as stated by the appellant. The Council outline, within their delegated report, that the proposal has resulted in the removal of softer boundary treatment (stated to be a wooden fence and vegetation) with the brick wall and railings stated to be higher than the previous fencing which it is stated to have replaced.
10. I therefore have no evidence within this appeal that the proposal (as a replacement fence) would have been the same height as previously present which would have meant it could, potentially, have been considered permitted development under Schedule, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GDPO). This part of the GDPO does not permit such features (gates, fences, walls etc) to exceed a metre above ground level adjacent to a highway used by vehicular traffic nor exceed its former height. Notwithstanding the limited information before me it is not within the scope of this

appeal to consider and confirm whether the proposal would have, for example, been permitted development depending on the site's circumstances. This would be more appropriately considered via a specific application for a Certificate of Lawfulness as appropriate based upon the facts in the context of the GDPO.

11. Whilst I can appreciate the cost implications, and general reasoning given for the fencing including that of the appellant's pets, I do not find that this overrules my findings that the proposal would be unsympathetic in its rural context. I do not find that many houses in the area have brick walls, metal gates and or fencing of the nature which is before me within this appeal. Comments relating to the materials approved as part of the original planning permission, and their suitability, for the appeal site are of limited relevance to this appeal proposal. Reference is made to a development which is stated to be in the region of a mile up the road but it is not within the scope of this appeal to consider other properties which the appellant may consider to be unsympathetic to their rural context – in the case of the site which is before me, it would be viewed in the context of open fields, modest residential development and low, character appropriate front boundary features. I find that the proposal is entirely alien and inappropriate for its site context.
12. I note that the appellant outlines that they did not know that they required planning permission and that, as soon as this was brought to their attention, retrospective planning applications were submitted, however, an invitation to submit a retrospective planning application is not indicative of the potential outcome and despite being considered on a retrospective basis this does not alter the basis for assessment which is against the Local Plan as a starting point in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The appellant's comments regarding the Council's intent to refuse planning permission are noted, however, cannot carry weight within the determination of this appeal which I have considered on its own merits against the relevant Local Plan documents as required as well as being based upon my site visit and the evidence before me.
13. The proposal is contrary to Milton Keynes Council Plan: MK 2016-2031 Policy DS5 which requires that proposals of this nature should not have a detrimental impact on the open character of the countryside in terms of scale and visual impact, Policy D1 which seeks to ensure that development proposals respond appropriately to the site and surrounding context and Policy D2 which requires boundary treatments to exhibit a positive character or sense of place for a development. The proposal would also be contrary to Policy D3 which, overall, is clear in its objective to respect character and surrounding context in terms of design of buildings, Policy NE5 which requires that development in the open countryside is undertaken in a manner that respects the particular character of the surrounding landscape and Policy NE3 which seeks to ensure proposals maintain and protect biodiversity.
14. The appellant references paragraph 55 of the National Planning Policy Framework, however, even taking into account that National Planning Policy Framework was revised in December, the previous version, in place at the point the appeal was submitted, sees paragraph 55 relate to planning conditions and obligations. I assume, based upon the Framework, and the wording of the appellant's submission that the appellant is referring to what is now paragraph 84 but, in this case, I do not find that the proposal, even as a new dwelling, could be justified as of exceptional quality or innovative in terms of design. Based upon my consideration of the relevant policies I find that Policy D1 and D2, respectively, are relevant to the

proposals for the reasons I have set out in terms of their objectives (above) and that there is an existing context which creates and contributes to the rural character of the area within which proposals would be viewed.

15. Whilst Policy D3 does allow, in point 5, for elements to be carefully designed to create character and visual interest I do not find, in this case, that this wording is sufficient to justify the proposal. The addition of character and interest should not, as in the case before me, result in proposals which are entirely unsympathetic to the context, and which is inappropriate in terms of the site and surrounding area. The addition of character, and visual interest, should still respect and take design cues to some extent from the site context and surrounding area within which the proposals will stand and be viewed on a day-to-day basis within the street scene.

Other Matters

16. I note an objection from the Parish Council, as well as other third-party objections, and I have dealt with the matters raised within the main body of this decision letter.

Conclusion

17. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Marshall

INSPECTOR