



Appeal Decision

Site visit made on 11 March 2025

by **S Simms BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 April 2025

Appeal Ref: APP/X2410/W/24/3354580

15 Heron Road, Barrow upon Soar, Loughborough, Leicestershire LE12 8AS

- 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 Shane Anthony Ward against the decision of Charnwood Borough Council.
 - The application ref. is P/24/0507/2.
 - The development proposed is change of use from footpath edging to residential garden.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form specifies 'timber fencing' as a boundary treatment and confirms that development has been completed, which I was able to see during my site visit.
3. The decision notice refers to a 'change of use of land to residential garden and erection of timber fence'. As this is a fuller description of the development applied for and completed, I have determined the appeal on that basis.

Main Issues

4. The main issues are the effect of the development on:
 - the character and appearance of the area and
 - biodiversity.

Reasons

Character and appearance

5. The site comprises land alongside a footpath within an open plan estate of two-storey detached houses arranged on cul-de-sacs branching off an access road. Where these terminate, landscaped footpaths continue and run alongside Fishpool Brook to woodland and other residential areas. Whilst there are close-boarded fences elsewhere within the estate, they are either adjacent to the highway or set back from footpaths, maintaining the spacious, open feel of the estate.
6. The development removes one such area of landscape alongside a footpath and replaces it with a close-boarded fence, typically between 1.8m and 1.9m in height, set around 0.3m back from the footpath, enclosing the land as part of the garden to 15 Heron Road. I saw on site that shrubs had been planted at about 0.8-metre separations in the gap between the fence and the footpath, potentially to replace

the hedgerow. The lack of space in which to grow is likely to result in the shrubs either failing to thrive or, in thriving, encroaching on the footpath or damaging the fence. In any event, this does and will not mitigate the loss of openness.

7. Overall, this results in the loss of an attractive feature and characteristic openness, which represent harms contrary to Policy CS2 of the Charnwood Local Plan Core Strategy (CS), Policy EV/1 of the Local Plan (LP) and emerging Policy DS5 of the draft Charnwood Local Plan 2021-2037 (CLP). These policies require that development to respects and enhances the character of the area.
8. Because do not have details of the Barrow upon Soar Village Design Statement, I cannot be sure that the development complies with Policy BuS4 of the Barrow upon Soar Neighbourhood Plan, which requires development to reflect guidance in that Statement. In any event, the development is contrary to advice at paragraph 3.58 of the Charnwood Borough Council 'Design' Supplementary Planning Document on the retention of well-established hedgerows.

Biodiversity

9. As the development removed a significant length of hedgerow, it seems likely that a loss of biodiversity has occurred. A Biodiversity Net Gain (BNG) Strategy was submitted with the appeal, but no assessment has been made of the scale of the loss or how effective the proposed measures would be in offsetting it.
10. I saw on site that shrubs had been planted, but I did not see a wildflower belt. This may have been because it was too early in the season, or it may be obscured by the fence. In any event, as the Council has pointed out, it is not practically possible to legally secure, manage or monitor biodiversity mitigation within private gardens.
11. Because I am not clear that implementation of the measures would be effective in mitigating the loss of biodiversity, I find the development likely, on balance, to have caused harm. As there is no evidence of exceptional circumstances, this is contrary to CS Policy CS13, which requires no loss of biodiversity.
12. As the development has already been carried out, it is not subject to the legal requirement for BNG. Nonetheless, it is contrary to emerging Policy EV6 of the draft CLP, which requires a 10% net gain. The draft CLP is sufficiently advanced in its preparation that I attach moderate weight to it.

Other Matters

13. The effective narrowing of the footpath results in a reduction in intervisibility, likely to increase the risk and perception of anti-social behaviour and crime amongst its users. This is a harm contrary to CS Policy CS2, which requires attractive and safe public and private spaces, and LP Policy EV/1, which requires positive, attractive frontages to footpaths and minimisation of opportunities for crime.
14. Regardless of ownership, the development results in a loss of open space and green infrastructure. This is a further harm, contrary to Policy CS12, which protects these assets for their community, economic and environmental values, and Policy CS15, which would retain open space unless clearly surplus to requirements.
15. Fly tipping, anti-social behaviour and security are not, of themselves, reasons to enclose open space, harming character and appearance, biodiversity and perceptions of safety. This is because powers exist to deal with fly tipping and anti-

social behaviour without causing the harms identified. Similarly, it has not been demonstrated that alternative less harmful measures to improve security would not be as effective as the fence. As such, I attach limited weight to these matters.

Conclusion

16. The harms to the character and appearance of the area, biodiversity, risk and perception of anti-social behaviour and crime, and the loss of open space are contrary to the development plan and are not outweighed by the need to tackle anti-social behaviour or secure property in the manner of the development. Consequently, I conclude that the appeal should be dismissed.

S Simms

INSPECTOR