



Appeal Decision

Site visit made on 1 April 2025

by U P Han BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 May 2025

Appeal Ref: APP/R3705/D/25/3359510

2 George Street, Arley, Warwickshire CV7 8HL

- 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 Natasha Russell against the decision of North Warwickshire Borough Council.
 - The application Ref is PAP/2024/0387.
 - The development is a 1.6 metre fence at the front of the property.
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Decision

1. The appeal is allowed and planning permission is granted for a 1.6 metre fence at the front of the property at 2 George Street, Arley, Warwickshire CV7 8HL in accordance with the terms of application PAP/2024/0387 and subject to the following condition.
 1. The external surfaces of the fencing hereby permitted shall be finished with a paint / wood stain treatment, the details of which shall be submitted to and approved in writing by the Local Planning Authority within three months of the date of this permission; the approved paint / wood stain treatment shall be completed within two months of the approval of these details.

Preliminary Matters

2. The Application Form confirms that the fence was completed in July 2024, and I was able to see this during my site visit. The application seeks to 'regularise' the fence that has been erected without planning permission.
3. In determining the appeal, I have used the description of development in the Council's Decision Notice because it more concisely and accurately describes the acts of development when compared to the description given in the Application Form.

Main Issue

4. The main issue in this appeal is the effect of the fence on the character and appearance of the area.

Reasons

5. The appeal site relates to a two-storey terraced house which occupies a prominent position close to the junction of George Street and Gun Hill. The area is largely characterised by similarly designed houses, open frontages and low boundary treatments. The prevailing street scene is one of visual openness and uniformity, contributing to the pleasant and cohesive character of the area.

6. The 1.6 metre high solid timber fence along the front boundary of the appeal site is a visually dominant and incongruous feature in this context. By virtue of its excessive height, solid form, prominent position and proximity to the highway, the fence appears dominating and intrusive when viewed from the public realm, eroding the openness of the frontage and interrupting the consistent pattern of low or open boundary treatments in the area.
7. The appellant has drawn my attention to a similar fence on the opposing corner of the appeal site. However, the Council's Officer Report indicates that there is no known planning application for the fencing at the property on the opposing corner. Furthermore, the fencing has the same visually enclosing and disruptive effect on the open fronted character of the dwellings in the area.
8. The appellant has also pointed to other similar fences and tall hedges in the area. However, I do not have the full details of these schemes and so cannot be certain that the circumstances of those cases or the policies that applied at the time of their consideration are the same as the appeal proposal. In any event, I have determined the appeal on its own merits.
9. While the side fences on the site are lower and therefore do not obstruct views from certain angles, the 1.6 metre fence at the front of the site is nevertheless visually imposing and discordant within the street scene. Additionally, the appellant's suggestion of painting the fence in a darker colour would not sufficiently mitigate its visual impact.
10. For the reasons given, the fence harms the character and appearance of the area. Consequently, there is conflict with Policies LP29 and LP30 of the North Warwickshire Local Plan (September 2021) (NWLP) insofar as they require development to respect and reflect the character and appearance of its setting. The fence also conflicts with Policy ANP5 of the Arley Neighbourhood Plan (December 2016) which seeks to promote high standards of design.

Planning Balance

11. I have had due regard to Article 8(1) of the European Convention on Human Rights as enshrined in the Human Rights Act 1998, that everyone has the right to respect for his private and family life and their home. Where Article 8(1) rights are those of children, as in this case, they must also be seen in the context of Article 3(1) of the United Nations Convention on the Rights of the Child. Whilst not determinative in themselves, the child's best interests are a primary consideration, and no other consideration is intrinsically more important.
12. I have carefully considered the reasons why the appellant has erected the fence, which is primarily to enhance privacy and security, particularly for the appellant's young child while in the front garden. I acknowledge that if allowed, the planning permission would run with the land and so would be permanent. However, I note that the front garden is the only garden attached to the house and I have no basis to question that this situation would change. Without the fence, the front garden would be visible to passers-by, thus compromising the privacy and security of the child while in the front garden. Dismissing the appeal would hold the potential of reducing the desirability of the front garden as an area for the child to play, thus limiting opportunities for outdoor play given the lack of suitable alternative private outdoor amenity space. Thus, the best interests of a child weigh in favour of allowing the appeal.

13. The fence harms the character and appearance of the area, which is contrary to the development plan. However, by providing a more secure and private area for play, the fence meets the best interests of a child. In this instance, the best interests of the child outweigh the adverse impacts of the fence on the character and appearance of the area. I am satisfied that is a necessary and proportionate decision from the submitted evidence.

Condition

14. I impose a condition relating to the painting/ wood stain treatment of the fencing in order to limit the harm to the character and appearance of the area.

Conclusion

15. I conclude that the fence is contrary to the development plan but in this instance, material considerations indicate that a decision should be made other than in accordance with it. Accordingly, for the reasons given, the appeal is allowed.

U P Han

INSPECTOR