



Appeal Decision

Site visit made on 17 March 2020

by Martin Small, BA (Hons), BPI, DipCM, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th March 2020

Appeal Ref: APP/L3815/W/19/3240273

Sunnydene, The Drive, Ifold, Loxwood, RH14 0TE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Andrew Norman against Chichester District Council.
 - The application, Ref: 19/00716/DOM is dated 9 March 2019.
 - The development proposed is described as 'replacement hedge, fencing and gates'.
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Decision

1. The appeal is dismissed, and planning permission is refused for fencing and gates at Sunnydene, The Drive, Ifold, Loxwood, RH14 0TE, in accordance with the terms of the application, Ref: 19/00716/DOM dated 9 March 2019 and the plans submitted with it.

Procedural Matters

2. The Council has indicated that had it been in a position to determine the application, it would have refused planning permission for the following reason; *"The proposed fencing, by means of height, materials and character, would create a tall front boundary treatment. This would appear incongruous within the semi-rural street scene which is characterised as being open and verdant. The proposal would therefore have a significant detrimental impact upon visual amenity and would conflict with Policy 33 of the Chichester Local Plan 2014-2029 which requires that proposals meet the highest standards of design (criterion 1) and respect and where possible enhances the character of the surrounding area and site, its setting in terms of its proportion, form, massing, siting, layout, density, height, size, scale (criterion 6). The proposal would also fail to accord with paragraph 127 of the NPPF and Section 12 (Achieving well-designed places) of the NPPF 2019 more generally."*
3. I observed during my site visit that a fence has been erected, gates installed, and hedge planted. The development has therefore taken place and I have determined this appeal on this basis.
4. The description of the development in the banner heading above is taken from the application form. However, the evidence for the existence of a previous fence along the front boundary of the appeal property as contended by the appellant is not conclusive. I return to this matter below, but I have omitted the reference to 'replacement' in my decision as it is not a description of the actual development. I have omitted the reference to the hedge as this is not development requiring planning permission.

5. The drawings submitted with the application show a 1.8 m high fence. In an email to the Council dated 2 June 2019, the appellant submitted revised drawings for consideration, reducing the height of the fence to 1.7 m and omitting the gates. However, the appellant has confirmed with the appeal documentation that the original plans and as-built state are the subject of this appeal. Although the appellant suggests that the revised drawings could be considered as an alternative, it was the original drawings that were open to public consultation. For the avoidance of doubt, I have therefore determined the appeal on the basis of the original drawings.
6. The parties refer in their evidence to the emerging Plaistow and Ifold Parish Neighbourhood Plan (PIPNP). From the evidence before me, the PIPNP has yet to proceed to referendum. Although Policy H4 of the PIPNP, to which the appellant refers, is broadly consistent with the National Planning Policy Framework (the Framework), I have no evidence of whether there are any unresolved objections to the policy. Therefore, in accordance with paragraph 48 of the Framework, I can only attribute moderate weight to this document.

Main Issue

7. Based on the Council's indicated reason for refusal the main issue is the effect of the development on the character and appearance of the area.

Reasons

8. Dwellings to either side of The Drive are substantial, detached and set in large plots back from the road. These plots have predominantly low front boundaries of varying forms, principally hedges and / or post and rail fencing. Although the designs of the dwellings vary, these low boundaries, the gaps between the dwellings and the wide grass verges to either side give The Drive a distinctive, attractive, spacious and verdant character. Even where hedges are higher, they are nevertheless soft boundaries and contribute positively to the character of the road.
9. In contrast, the fence represents a more formal, higher, harder and more solid form of boundary treatment than that prevailing along The Drive. The small gaps between the boards would not substantially reduce its solidity and would only really be noticeable when directly in front of the fence. Although the appeal property is visible over it, it is constructed of sustainably sourced timber and is described as purposely-designed, the fence is incongruous in and detracts from the street scene of the area. Whilst a hedge of native species has been planted in front of the fence, it will take some time for this to mature and significantly soften or screen the fence. Furthermore, the hedge that I observed was not substantial, which would limit its ability to soften or screen the fence.
10. The appellant contends that the fence is a replacement for a previous 1.8 m high fence to the front boundary, which had to be removed following damage by a car. A photograph has been submitted purporting to show this fence, although this is questioned by the Council and it is not possible from the photograph to confirm that it is of the appeal property. The evidence before me of a previous fence is therefore inconclusive but even if this fence did exist, I have no evidence as to how long it had been in situ prior to the appellant's purchase of the property or that it was lawful. Furthermore, from the photograph, the fence shown was also out of keeping with the character and

appearance of The Drive rather than being part of the established character. In the circumstances of this case and from the evidence before me I therefore give little weight to this matter as justification for the development before me.

11. There are examples of close-boarded fencing to the front boundaries of some of the properties along The Drive to which the appellant draws my attention and which I observed during my site visit. However, these are not sufficient in number to form a characteristic form of front boundary treatment along the stretch of The Drive in which the appeal property is located. I note that the existing fences are also mostly located some distance from the appeal property at the southern or northern ends of The Drive or on Plaistow Road and I observed during my site visit that they do not provide a visual context for the development before me. There is fencing opposite the appeal property along each side of Hawthorn Close, but this is to the side boundaries of the properties either side of the entrance to Hawthorn Close, not their front boundaries.
12. I therefore conclude that the fence is harmful to the character and appearance of The Drive. Accordingly, in this respect it is contrary to Policy 33 of the Chichester Local Plan: Key Policies 2014-2029 (CLPKP) which, whilst not specifically referring to the design and appearance of front boundaries, nevertheless requires, amongst other things, proposals to meet the highest standards of design and to respect and where possible enhance the character of the surrounding area and site, including in terms of form and height. Whilst the appeal property is not within a 'designated environment', this policy is still applicable. The development therefore gains no support from Policy 1 of the CLPKP which supports proposals that accord with other policies of the CLPKP.
13. Although not cited in the Council's reason for refusal, the development is also contrary to Policy H4 of the emerging PIPNP which also requires design of developments to be in keeping with the character of the area, notwithstanding the planting of the hedge, although as I explain above, I can only give moderate weight to this Plan. The development also fails to accord with paragraphs 124 and 127 c) of the Framework, which set out that good design is a key aspect of sustainable development and that planning decisions should ensure that developments are sympathetic to local character.
14. The appellant refers to an objection to the development from Plaistow and Ifold Parish Council, which is submitted with the appellant's evidence. The objection refers to the Parish's emerging Village Design Statement (VDS). I do not have a copy of this document but, from the evidence before me, whilst it refers to the eclectic mix of styles of properties in Ifold it encourages the use of post and rail fencing, with or without hedging, to reflect the local character. The development therefore does not accord with this guidance. However, as the VDS has yet to be adopted and is guidance rather than policy, I can only give it little weight in my determination of this appeal.

Other Matters

15. I note the appellant's desire to prevent disturbance from the noise and headlights of vehicles exiting Hawthorn Close opposite the appeal property. However, Hawthorn Close is a small development that is unlikely to give rise to significant vehicle movements and the disturbance is likely to be brief.
16. I also note the appellant's dissatisfaction with the Council's contended unwillingness to discuss a mutually acceptable proposal in accordance with

Policy 1 of the CLPKP and paragraph 38 of the Framework. However, the Council did engage with the appellant by email and set out its position. Whilst the Council has granted permission for fences elsewhere in Ifold and has not, from the evidence before me, taken enforcement action in respect of the means of enclosure at Hawthorn Close, it is an established principle that each proposal should be considered on its own merits.

17. I accept that a fence up to 1.0 m high could be erected adjacent to the highway without the need for a separate grant of planning permission under Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). I have no evidence that the appeal property does not benefit from the permitted development rights under this Class. However, such a lower fence would maintain the characteristic spaciousness of the area to a significantly greater extent than the development before me, and this fall-back would therefore represent a less harmful form of development.
18. These other matters do not, therefore, outweigh the harm to the character and appearance of the area arising from the development and consequent conflict with the development plan.

Conclusion

19. For the reasons given above, and having regard to the other matters raised, the appeal is dismissed, and planning permission is refused.

Martin Small

INSPECTOR