



Appeal Decision

Site visit made on 14 August 2009

by **Martyn Single DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

The Planning Inspectorate
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Decision date:
25 August 2009

Appeal Ref: APP/C3430/A/09/2102748
2 Littlewood Lane, Cheslyn Hay, WS6 7EJ

- 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 Mrs W Allen against the decision of South Staffordshire Council.
- The application Ref 08/01149/FUL, dated 21 November 2008 was refused by notice dated 16 January 2009.
- The development proposed is to retain an existing fence.

Decision

1. I allow the appeal and grant planning permission for the erection of a fence at 2 Littlewood Lane, Cheslyn Hay, WS6 7EJ in accordance with the terms of the application Ref. 08/01149/FUL, dated 21 November 2008, and the plan(s) submitted therewith, subject to the following condition:
 - 1) Within one month of the date of this decision the length of existing timber post and rail fence extending from the northern corner of the appeal site to the end of the conifer hedge on the boundary with Cherry Cottage shall be removed.

Main Issues

2. I consider the main issue in this appeal to be the impact of the fence in the street scene and its effect on the enjoyment of adjoining properties.

Reasons for Decision

3. As the development has already been carried out, I have considered this appeal as relating to an application made under S73A of the Town and Country Planning Act 1990, as amended. The fence is situated along the rear boundary of the appeal property with Cherry Cottage, from which it is separated by a taller conifer hedge for much of its length. Towards the front of Cherry Cottage the fence is exposed by the removal of a length of this hedge, the representations indicating that the neighbouring occupiers propose to erect a garage in this position. Immediately outside the side door of their home is another gap in the hedge next to a sewer inspection chamber.
4. The fence is of a design that would traditionally have been regarded as unconventional in a domestic situation, being constructed of dark blue steel

panels topped with a cream trellis, each one separated by steel posts with ball finials. However, it is a form of contemporary design that provides a far more durable means of enclosure than timber fencing. The rear garden of the dwelling is at a lower level than the street and the fence can hardly be seen from the public highway, indeed from Hawthorne Road at the rear it is not visible. I do not agree with the Council's concerns in relation to its impact in the street scene. I found its design and appearance to be entirely suitable in such a position enhancing the surroundings of the garden and I do not accept that because it is of contemporary design it is visually intrusive.

5. I appreciate the views expressed by the immediate neighbours particularly in light of the fact that the fence is most apparent through the gap outside their side door. However, the gap in the hedge is not of the appellant's making and, whilst I note the presence of a sewer along the boundary that may prevent the reinstatement of a similar hedge, I am satisfied that its appearance could be mitigated by some form of planting. I am not in a position to impose this as a planning condition as it would not be on the appellant's land.
6. The third party submissions refer at some length to problems of graffiti on the fence but this appears to have arisen as a result of some animosity between neighbours and is not a matter for my consideration in this appeal. The length affected was on the neighbours' side and at the time of my visit this had been removed. I see no greater risk of this design of fence being subject to this type of vandalism than other means of enclosure. A further issue raised related to the noise of the fence in wind. Generally I see no reason why this should be any more of a problem than with a wooden fence. However, I recognise that towards the front of Cherry Cottage an old post and rail timber fence abuts the steel panels and this could be the subject of noise in some conditions. It no longer serves any purpose and I am satisfied that this issue could be resolved by the removal of this short length within one month of this decision, which I require by condition.
7. I am satisfied that the fence has no adverse impact on the street scene or the character of the area. Whilst of modern design I find its impact on the amenities of adjoining residents to be acceptable and agree with the appellant that the Council's suggested condition is not reasonable or necessary. Although the Council cites Policy BE26 of the South Staffordshire Local Plan in support of its decision, I find no conflict with its design criteria or the aim of national planning policy to secure a high standard of design which I believe this fence to fulfil.

Martyn Single

INSPECTOR