Planning Inspectorate

Appeal Decision

Site visit made on 28 October 2025

by S F Barnes MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2025

Appeal Ref: APP/M3835/W/25/3368914
Flat 2 Southview House, 20 Southview Gardens, Worthing, West Sussex BN11 5JA

- 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 Mr Shaun Hollman against the decision of Worthing Borough Council.
- The application Ref is AWDM/0464/25.
- The development proposed is described in the application form as follows: Raise the height of the front garden fences from 1.2m to 1.8m.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the site address given above from the appeal form as this is more precise than what was given in the application form.

Main Issues

3. The main issues are the effect of the proposal on:
   - the character and appearance of the area; and
   - the living conditions of neighbouring occupiers, with particular regard to outlook.

Reasons

Character and appearance

4. The appeal site contains a detached building used as two flats. The appeal relates to the first-floor flat and its associated front garden. The surrounding area is characterised by two-storey buildings, either detached or in pairs, set-back to provide front gardens. With limited exceptions, front boundary treatments to properties along Southview Gardens are characterised by low-rise brick walls at the street frontage, some topped by hedges or other soft landscaping. Between properties and at the sides of front gardens, boundaries are generally continuations of the low walls to the front or are marked by comparably low, timber fences.

5. The host garden is enclosed by a low brick wall topped with a timber fence, with timber fences to the sides. The existing wall and fences align with the scale, design and materials of the boundary treatments typically found on Southview Gardens.

6. The proposal would retain the existing boundary treatment with the addition of a steel weld mesh 'cat fence'[1] fixed to them. The cat fence would comprise steel supports spaced along the fence line with mesh spans attached, considerably extending the height of the boundary treatment along the footway. Whilst use of weld mesh would maintain a good degree of visibility into the site, I am not persuaded from the details before me that this would effectively appear as transparent, as suggested by the appellant. The proposal would significantly increase the mass of the boundary treatment, creating an uncharacteristic visual barrier in the streetscene.

7. The appellant contends that as the scheme would have a neutral impact on the streetscene, it should be considered acceptable with reference to caselaw[2]. However, I find the height, design and materials proposed would be at odds with the prevailing character and therefore would result in harm. Whilst I agree that the proposal being visible does not necessarily equate to a harmful effect, its location next to the footway is a prominent one and highly sensitive to uncharacteristic alterations. That would be the case irrespective of the existence of some screening that is provided by soft landscaping at neighbouring sites, street trees or more transient features like parked cars. As such, those factors do not lessen the prominence of the proposal.

8. Although natural or artificial soft landscaping could, in principle, provide a degree of screening and softening, the proposal would remain prominent and discordant in height. No soft landscaping scheme has been provided, and I am not satisfied that one could be agreed that would result in a development in keeping with the area. Consequently, such a scheme would not overcome the harm I have identified. In any case, landscaping cannot be relied upon in perpetuity to always provide the same level of screening.

9. Concluding on this main issue, I find that the proposal would be an incongruous, alien feature that, due to its prominence, would harm the character and appearance of the area. This would conflict with the relevant provisions of Policy DM5 of the Worthing Borough Council Local Plan 2020 to 2036 (Local Plan) (2023). In summary, this policy seeks alterations of a high architectural and design quality and which respect and enhance the character of the site and the prevailing character of the area.

Living conditions

10. At the height proposed and taking account of the open mesh used, it is unlikely that the proposal would materially obstruct the passage of light or obstruct views out of front windows at the appeal site, as raised by the Council and an interested party. The proposal would be unobtrusive in these respects. The Council also refer to the effect on outlook from neighbouring 22 Southview Gardens. However, as the proposal would be sited some distance from windows there, I am satisfied that there would be no material obstruction to the outlook available from windows at that property, which would remain uninterrupted across its own front garden.

11. I conclude that the proposal would have an acceptable effect on the living conditions of neighbouring occupiers with particular regard to outlook. In this

[1] As described in section 9 - Materials on the Application Form.
[2] *R. (on the application of Alconbury Developments Ltd) v Secretary of State for the Environment, Transport and the Regions* [2001] UKHL 23

respect, the proposal would comply with the relevant provisions of Policy DM5 of the Local Plan. In short, that policy seeks to ensure that proposals avoid unacceptable impacts on the occupiers of adjacent properties, including loss of outlook.

Other considerations

Fallback position

12. It has been put to me that a fence of a similar design could be erected within the front garden, albeit set-back from the position of the existing boundary walls on the site. This would be the appellant's fallback position. I have limited details of such a scheme and there is no evidence that a lawful development certificate has been granted for that alternative scheme.

13. It is not for me in assessing this appeal scheme, and mindful of the appellant's reference to caselaw[3], to determine whether particular building operations would be lawful under permitted development, either for the appeal proposal, an alternative scheme or works at nearby properties, including at 44 Grand Avenue.

14. Nevertheless, the evidence does lead me to conclude that, should the appeal be dismissed, there is a real prospect that the appellant will explore an alternative scheme using permitted development rights. Even if I were to accept that the alternative scheme put to me would comply with conditions and limitations of permitted development rights, I do not consider that it would lead to equal or greater harm to the street scene compared to the appeal proposal. This is because it would be set back from the footway and so less prominent.

15. Accordingly, there is no convincing evidence before me that demonstrates that a similarly harmful scheme could reasonably be implemented under permitted development. I therefore afford this consideration only limited weight in favour of allowing the appeal.

Personal circumstances and equality

16. In making this decision, I am obliged by the Public Sector Equality Duty[4] to have due regard to the need to eliminate discrimination against persons with protected characteristics, to advance equality of opportunity for those persons and to foster good relations between persons who share a relevant protected characteristic and persons who do not. The appellant has explained that the appeal property is occupied by persons with disabilities and the proposal would improve their quality of life by providing a facility for them to enjoy with their pets. I also understand the appellant's desire to provide a safe and secure outdoor space for their pets. I have given this factor moderate weight in assessing the proposal.

17. However, this must be weighed against the significant harmful effect to the character and appearance of the area which may persist beyond the use of the property by those occupiers. The evidence before me does not indicate that the appellant's objectives could not be otherwise met through an alternative or less harmful design. Accordingly, this factor does not outweigh the identified harm.

[3] *Simmonds v SSE & Rochdale MBC* [1980] 40 P & CR 432; *Mansell v Tonbridge and Malling BC* [2017] EWCA Civ 1314 and *R. (on the application of Zurich Assurance Ltd (t/a Threadneedle Property Investments)) v North Lincolnshire Council* [2012] EWHC 3708 (Admin).
[4] As set out in section 149 of the Equality Act 2010.

18. Reference has been made to the effect that there would be a possible interference with the human rights of the appellant and their family under Article 8 of the Human Rights Act 1998 if the appeal were dismissed. Article 8 deals with the right for respect for private family life and the home, amongst other things. There is no substantive evidence before me to indicate that dismissing the appeal would prevent the use or enjoyment of the existing home. Dismissing this appeal would not therefore be a disproportionate interference with those rights. I do not consider that dismissing the appeal would discriminate in any way against the appellant or their family. On this basis, I conclude that my decision does not interfere with these rights.

Other Matters

19. My attention has been drawn to boundary fences at nearby 3 and 24 Southview Gardens and to a tall, rendered wall on Hailsham Road. However, full details of these developments, including their planning history or planning balance, are not before me. In any case, taller boundary treatments like these are not dominant features of the streetscene and do not justify the appeal proposal, particularly where harm has been identified.

20. I have been referred to an appeal decision[5] which relates to a proposal for a mesh fence. While this is acknowledged, the characteristics of each site and location are different. That site, in particular, lies in a less urban and different part of the country. Accordingly, the circumstances that applied to that case and the planning balance undertaken there are not directly comparable to this appeal.

21. An interested party has suggested that the proposed development would facilitate a cattery business at the appeal site. The plans and evidence before me do not relate to any change of use of the appeal site, and this is the basis on which I have considered the appeal.

22. The main parties agree that the proposal poses no unacceptable effect on highway safety. I also note the lack of objection from some nearby properties. However, a lack of harm or objection is effectively neutral in my consideration of the appeal.

Conclusion

23. Whilst I have found that the proposal would not harm the living conditions of neighbouring occupiers, I have found that it would harm the character and appearance of the area. The proposal conflicts with the development plan taken as a whole and there are no material considerations that indicate that the appeal should be decided other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

S F Barnes

INSPECTOR

[5] Appeal reference APP/H0738/D/21/3279055