The Planning Inspectorate

Appeal Decision

Site visit made on 6 November 2023

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date:13.11.2023

Appeal Ref: APP/M3835/D/23/3326913
47 West Park Lane, Worthing, West Sussex, BN12 4EP

- 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 Mr Gareth Birch against the decision of Worthing Borough Council.
- The application Ref. AWDM/0543/23, dated 10 April 2023, was refused by notice dated 31 May 2023.
- The development proposed is retention and extension of close boarded fence above existing boundary wall (total height 2.25 metres).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The reason for refusal and the Council's Delegated Report (CDR) refer to the National Planning Policy Framework (July 2021) (Framework), but since then the Framework has been revised, in September 2023. However, the Council have referred to sections 12 and 16 of the Framework and those remain unchanged in the September 2023 version.

3. The description of development on the Application Form is different to that on the Decision Notice, and I have adopted the latter as this more accurately describes the proposal.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the host property and surrounding area, with particular regard to the appeal sites location within the setting of a designated conservation area.

Reasons

5. The appeal site is located on the corner of West Park Lane with Shaftesbury Avenue and comprises a detached chalet style bungalow with garden areas on three sides. Other than a driveway and pedestrian gate, the boundary of the appeal site to West Park Lane is formed by a low brick wall and mature high hedge. This low brick wall and hedging wraps around the corner of the appeal site to extend along the frontage of the site to Shaftesbury Avenue. On this boundary, I understand that the hedge has been cut back, along its length, to allow the new close boarded fence to be built, which the submitted plans

indicate has a height of some 1.6 meters above the low brick wall of some 0.65 metres, equating to a total height of some 2.25 metres. As the proposed fence is already in place, planning permission is sought retrospectively for its retention.

6. The Council have referred to policy DM5 of the Worthing Local Plan 2020 – 2036 (March 2023) (WLP) which seeks to ensure, amongst other requirements, that new development (including residential extensions, alterations and ancillary development): respects and enhances the character of the site and the prevailing character of the area; enhances the local environment with particular regard to landscaping and impact on the street scene; makes a positive contribution to local distinctiveness; and respects, preserves and enhances heritage assets. Policies DM23 and DM24 of the WLP, also referred to by the Council, provide more detailed advice on heritage assets and state that development should not adversely affect the setting of such assets.

7. The Council have also provided a copy of the Shaftesbury Avenue Conservation Area Appraisal (Appraisal), which appears to date from 2009. The plan that accompanies this Appraisal confirms that No's 2 – 36 (even) on the west side of Shaftesbury Avenue fall within the Shaftesbury Avenue Conservation Area (SACA), as well as No. 130 Goring Road. The appeal site is located directly opposite No's 32 -36 (even) Shaftesbury Avenue and therefore it lies within the setting of the SACA. Section 72(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 requires, therefore, that special attention be paid to the desirability of preserving or enhancing the setting of this heritage asset. Similar advice is to be found in the Framework and in policies DM5, DM23 and DM24 of the WLP, referred to above.

8. The Appraisal states that the special interest of the SACA derives from the fact that all the properties included in the area are fine examples of modern movement inspired architecture. Most of the properties are semi-detached and have the modern movement's characteristic massing, flat roofs, parapets, white painted concrete, steel window frames and other cubist and curved detailing. All the houses have moderately large front gardens, integral garages and are built at a uniform distance from the pavement, resulting in a regular line of semi-detached villas. Other features include the low red-brown brick, basket-weave garden walls, which the Appraisal states may be original. The front gardens and parking areas, set behind these walls, are either open to the road or are formed by a mixture of hedging, trees and shrubs.

9. I have not been provided with any images of the boundary treatment to Shaftesbury Avenue prior to the erection of the new fencing. However, an objection submitted in response to the application and the assessment undertaken withing the CDR, indicate that this boundary was previously a mature hedge. As I observed on site, that mature hedge is now largely hidden behind the new fence and as I mentioned above, my understanding is that the hedge was cut back to accommodate the proposed fence.

10. Within the above context, the height, length and siting of the proposed fence is, in my view, excessive and visually intrusive. It results in a hard edge to the western boundary of the appeal site, in a very prominent location on a busy main road. The light wood colouring accentuates its visual impact and whilst I appreciate that the fence could be stained a darker colour this would not

mitigate for the significant harm that results to the character, appearance and local distinctiveness of the host and surrounding area.

11. The siting and extent of the new fencing leaves no space for any planting to be provided in front of it on the roadside frontage. Consequently, the effect is predominantly a hard edge to this boundary, replacing what the evidence before me indicates was a mature hedge. As I also observed on site, the proposed fence is prominent in long distance views and contrasts markedly with the boundaries of the properties to the south of the appeal site and to the west, on Shaftesbury Avenue, that are characterised largely by low brick walls and open or landscaped frontages.

12. Whilst I saw examples of fencing on my site visit and the Appellant has drawn attention to these in the photographs included with their Grounds of Appeal, this part of Shaftesbury Avenue is not characterised by such fencing. Even so, no evidence of the planning background to these examples has been provided or whether those within nearby conservation areas benefit from planning permission. I also note that the CDR states that other existing fences were granted planning permission as their design, siting and circumstances differed to those that arise on the appeal site. Consequently, none of these examples affect my overall findings.

13. I appreciate that the proposed fence would provide a good level of security and privacy to the side garden, as well as deflect noise and prevent littering. Even so, none of these considerations nor any other personal circumstances outweigh the significant harm that I have identified. Moreover, a number of those benefits could be secured by repositioning the fence behind the mature hedge. Furthermore, the fact that the proposal would not have any impact on highway safety and that the Highway Authority raised no objection to the application, does not affect my findings.

14. Turning to the setting of the SACA, the proposed fence would result in significant harm to the character and appearance of the host property and surrounding area, and as such it would also not preserve or enhance the setting of the SACA. In view of this finding and as is required, particularly by the Framework, considerable importance and weight must be attached to the harm to the setting of this designated heritage asset. The appeal proposal would lead to less than substantial harm to the significance of the designated heritage asset. The level of harm would, in my judgement, be moderate, and there are no public benefits before me, delivering either economic or social or environmental objectives, which would outweigh that harm.

15. Accordingly, I find that the appeal proposal would be contrary to policies DM5, DM23 and DM24 of the WLP, the guidance in the Appraisal and paragraphs 130, 189, 197, 199 - 200 and 202 of the Framework.

Conclusion

16. For the reasons given above and having taken all other matters raised into account, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR