



Appeal Decision

by I Stevens BA (Hons) MCD MBA MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 18/01/2024

Appeal reference: CAS-02951-Z0Q3G2

Site address: 2 West Way, Penley, Wrexham, LL13 0JW

- 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 Allison Bywater against the decision of Wrexham County Borough Council.
 - The application Ref P/2023/0199, dated 16 March 2023, was refused by notice dated 17 July 2023.
 - The development is described as erection of fence (in retrospect).
 - A site visit was made on 6 December 2023.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development, copied into the banner heading above, is taken from the Council's Decision Notice as it is more concise and precise than that contained in the Application and Appeal Forms. As the development has already been carried out, I have considered the appeal on the basis that it seeks retrospective planning permission.
3. The Wrexham County Borough Local Development Plan 2013-2028 (LDP) was adopted on 20 December 2023, superseding the Unitary Development Plan on which the Council's decision was based. The appeal is determined in accordance with the adopted LDP having regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004. Both parties have been provided with the opportunity to identify and make representations on the relevant LDP policies in relation to this appeal.
4. On 18 October 2023, the Welsh Government published an update to Chapter 6 of Planning Policy Wales (PPW), which covers green infrastructure, net benefit for biodiversity, the protection afforded to Sites of Special Scientific Interest and trees and woodlands. The changes to PPW have been taken into account but in this case, they do not raise any new matters that have any significant bearing on the decision.

Main Issue

5. The main issue is the effect of development on the character and appearance of the surrounding area.

Reasons

6. The appeal site comprises a detached bungalow on the corner of West Way and Oak Avenue, two cul-de-sacs in a residential area. The timber-panel boundary fence is punctuated by concrete posts and reaches a maximum height of approximately 1.7m from the ground level within the site. The fence wraps around the side and rear of the dwelling, enclosing its garden. A section of the fence runs flush with the dwelling's front elevation, reaching the footway edge to Oak Avenue, and continuing alongside the highway before returning in at the rear boundary.
7. The surrounding area comprises dwellings with modest front driveways and gardens of similar depth. The regular use of low-level walls and soft landscaping in front boundary treatments contribute to an open and spacious character in both streets. Fences are typically positioned between properties rather than on front and side boundaries, and do not protrude into front garden spaces. As such, the extents of these fences are only partially visible in public views. Consistent with neighbouring properties, the appeal development has retained an open appearance to the front garden.
8. The fencing is a tall and prominent vertical feature, running for a considerable length along Oak Avenue. I understand that it replaced a timber structure of lesser height, which was set back further from the highway and interspersed with vegetation. Nevertheless, the height and length of the as-built fence present a visually solid and impermeable barrier, jarring with the prevailing form of boundary treatments in the area. This harm is augmented by its position on a corner plot, visible from several vantage points along the street where its incongruity is evident.
9. The fence is at odds with the softer boundary treatments of other corner plots in the surrounding area. On the opposite side of the cul-de-sac entrance, No. 1 West Way has a mix of planting along its side boundary and blends in with the soft landscaping seen in views to the south along Oak Avenue. Further along the street, No. 5 Tudor Road has a tall hedgerow running the length of its side boundary, in direct view of the appeal site. The opposite property at No. 7 Tudor Drive has a low-level fence positioned in front of a taller hedgerow on its side boundary.
10. My attention has been drawn to other examples of fencing in the area, which I saw on my site visit. Along Hillcrest, to the south of the appeal site, impermeable fences of varying heights and arrangements are already present to the front, side, and rear of properties that either face or back on to the cul-de-sac. The examples along Hillcrest and elsewhere in Penley are not in visual range of the appeal site and therefore have little bearing on its context. In any event, where lengthy solid fences have been installed adjacent to footways, they do not set a desirable design precedent. For these reasons, I attach limited weight to the examples.
11. I acknowledge that the suggestion to paint the fencing a green colour is an attempt to be more in keeping with the natural features of its surroundings. However, I am not persuaded that this would overcome the harm arising from the size and solid form of the fencing, which is alien to the area. Given its position to the rear of the footway, there is little opportunity to include landscaping in front of the fence to soften its appearance.
12. I recognise that the development addresses privacy and security concerns raised by the appellant. However, these matters, whilst of individual benefit to the appellant, do not outweigh the harm caused by the visual impact of the development. In any case, there is no suggestion that these objectives could not be achieved through other options, which would not have the associated harm I have identified in this appeal. Whilst I note the appellant's concerns about reducing the fence to 1m in height, there is no suggestion that it is the only acceptable means of enclosing the property. Indeed, the Council's letter

dated 22 December 2022 sets out several options for the fencing, based in part on its interpretation of permitted development rights. This does not preclude future alternative proposals, although in this instance I have found that the development causes unacceptable harm to the character and appearance of the area. It is therefore contrary to the design criteria of Wrexham LDP Policy DM1.

Other Matters

13. I note the representations in support of the development. I have also noted the appellant's comments about the Council's handling of the planning application. However, these matters have not altered my findings on the planning merits of the scheme, which I have found unacceptable for the reasons given above.

Conclusion

14. For the reasons given above, and taking account of all other matters raised, I conclude that the appeal should be dismissed.

15. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives.

I Stevens

INSPECTOR