
Appeal Decision

Site visit made on 5 January 2017

by Louise Phillips MA (Cantab) MSc MRTPI

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

Decision date: 13 January 2017

Appeal Ref: APP/B1415/D/16/3164302

49 Gillsmans Park, St Leonards-on-Sea, East Sussex TN38 0SN

- 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 & Mrs D Miles against the decision of Hastings Borough Council.
 - The application Ref HS/FA/16/00376, dated 18 May 2016, was refused by notice dated 7 October 2016.
 - The development proposed is a fence to enclose the rear garden.
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Decision

1. The appeal is allowed and planning permission is granted for a fence to enclose the rear garden at 49 Gillsmans Park, St Leonards-on-Sea, East Sussex TN38 0SN in accordance with the terms of the application, Ref HS/FA/16/00376, dated 18 May 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 4281/16/LBP/B; and 4281/16/1.
 - 3) No development shall commence until details of the materials to be used in the construction of the fence hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.
 - 4) No development shall commence until a scheme of landscaping along the southern and eastern boundaries of the site has been submitted to and approved in writing by the local planning authority.
 - 5) All planting, or seeding comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

Main Issue

2. The main issue is the effect of the proposed development upon the character and appearance of the area.

Reasons

3. The appeal property is a recently constructed dwelling built within the curtilage of the neighbouring house. It occupies a corner plot at the junction of Gillsmans Park and Fernside Avenue. The proposed development is to erect a 1.8m close boarded fence, primarily along the southern boundary with Fernside Avenue, to enclose the rear garden. The fence would be positioned within 2 – 2.5m of the footway. Planning permission has already been granted for a similar fence 4.2 – 6.5m from the footway.
4. Gillsmans Park has an open character, given by deep front gardens and particularly wide roadside verges. The proposed development would have very little impact upon the character of this road because the garage at the appeal site would block views of the fence from the north.
5. The appeal site is prominent in views from the east along Fernside Avenue because the land slopes steeply upwards from east to west. The new dwelling, the high retaining wall for its rear patio and its detached garage are clearly visible from the lower ground. This existing development stands forward of the adjacent property on Fernside Avenue, No 29, and so it is very clear that one is looking at a rear garden environment rather than a verge in the public realm.
6. In this context, a fence in the position proposed would look no more out of place than one in the position already approved. Indeed, the proposed fence might be successfully screened by boundary planting, whereas one further into the site could create an unusual 'corridor' between the fence and the plants and leave the fence visible. The appellant has no objection to enhancing the existing boundary planting, and this would soften the appearance of the fence against the open frontages of Nos 27-29 Fernside Avenue. The fence would be visible until the plants establish, but the stretch of Fernside Avenue immediately opposite the junction with Gillsmans Park does not have such an open character. Therefore, its appearance would not cause unacceptable harm.
7. I have had regard to an appeal decision concerning an earlier proposal to erect a fence at the site¹. Whilst I have no specific details of the scheme, the appellant states that this fence would have been immediately adjacent to the footway. I agree with the previous Inspector that such a fence would have a considerable adverse impact on the area's distinctive qualities, not least because boundary planting would be very difficult. However, in the case before me, the fence would be set a reasonable distance from the highway given the orientation of the plot.
8. I therefore conclude that the proposed development would not be harmful to the character and appearance of the area. Thus it would not conflict with the aim of Policy DM1 of the Hastings Development Management Plan 2015, or Policy SC1(i) of the Hastings Planning Strategy 2014, to protect local character through good design. Nor would it conflict with the provisions of the National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG) concerning good design.
9. In reaching my decision, I have observed the fencing at No 25 Fernside Avenue, which encloses the front garden of the property. It is right on the

¹ Ref APP/B1414/D/16/3153073.

boundary of the site and, as most front gardens in the area are open to the highway, it appears as an unusual feature. For the avoidance of doubt, it has no bearing upon my decision.

Conclusion and Conditions

10. For the reasons given above I conclude that the appeal should be allowed.
11. I have considered whether conditions should be imposed having regard to the tests in paragraph 206 of the Framework and the advice in the PPG. I have imposed the standard time limit for the commencement of development and, in the interests of proper planning, I have imposed a condition requiring the development to be carried out in accordance with the approved plans.
12. To protect the character and appearance of the area, it is necessary that the fence is constructed in high quality materials; and for a suitable landscaping screen to be secured for the prominent boundaries of the site. I have imposed relevant conditions accordingly.

Louise Phillips

INSPECTOR