
Appeal Decision

Site visit made on 28 February 2017

by J C Clarke BSc(Hons) BTP MRTPI

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

Decision date: 29th March 2017

Appeal Ref: APP/Y0435/D/16/3167780

8 East Dales, Heelands, Milton Keynes MK13 7PH

- 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 Zahid Ahmed against the decision of Milton Keynes Council.
 - The application Ref 16/01872/FUL, dated 5 July 2016, was refused by notice dated 22 September 2016.
 - The development proposed is described as '8 East Dales - 1.8m height fence – moving of a fence at the side of the property to a new location to the extent of the boundary'.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the fencing on the character and appearance of the site and the surrounding area.

Reasons

3. Number 8 East Dales is prominently located on a corner plot in an established residential estate. The surrounding area has a verdant and well landscaped character, in which dwellings are generally set back from the highway within extensive plots.
 4. The fencing subject to appeal, which has already been erected, runs along the entire length of the side of the property, from its front corner backwards. Whilst it is some distance from the carriageway of Arncliffe Road, from which it is separated by a wide verge containing several mature trees, it is immediately alongside the footway. I understand that it has replaced a previous fence which was set back slightly from the footway behind a vegetated strip.
 5. Despite the presence of the trees between it and Arncliffe Road, the fencing is prominently visible from a substantial stretch of the adjacent footway and from parts of East Dales and Arncliffe Road. For passers-by its timber and concrete construction presents a bland and enclosed frontage which contrasts markedly with the verdant character of much of the surrounding area.
 6. Whilst I have noted the existence of fencing along the side of 9 East Dales this is set back slightly from the adjacent footway and does not have an equivalent visual impact to that subject to appeal. Although the Appellant has provided a large number of examples of other fences in the Milton Keynes area, it has not
-

been demonstrated that the circumstances and planning history concerning these equate to those at the appeal site. I have in any event considered the appeal as I must on its own merits.

7. I agree with the Appellant that 1 Arncliffe Road does not have an equivalent layout to the appeal property. I also saw no evidence of graffiti on the fence subject to appeal at my site visit. However, these points do not mean that the erection of the fencing at the appeal property has not been harmful. There is also no guarantee that the planting of climbing plants as suggested by the Appellant would fully mitigate its appearance.
8. Due to a combination of its length, position, design and height I conclude that the erection of the fence has caused substantial harm to the character and appearance of the area. Its retention would conflict with Saved Policies D1(iii) and D2A of the Milton Keynes Local Plan 2005.

Other Considerations

9. I acknowledge that, as confirmed in the expressions of support received from nearby residents, the re-alignment of the fence is likely to have made it easier to keep the area clear of rubbish and other items and to discourage some forms of anti-social behaviour. I also acknowledge the Appellant's need to provide adequate security to his rear garden. However, I am not convinced that these benefits, important though they are, outweigh the visual effects of the fencing particularly as it also bounds the front garden within which a lower level of privacy and security would normally be expected.
10. I am also not convinced that the re-alignment of the fence constituted an 'alteration' which could benefit from the permitted development rights under Part 2, Class A of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the 'GPDO'). In this context the adjacent footway is likely to form part of the 'highway' in legal terms, in which case the relevant height limit of fencing erected or altered under Part 2 would be 1 metre.
11. I have noted the points made by the Appellant about the Council's handling of the application, the advice that he received in the preceding period and the single objection which was received by the Council. I have no reason to doubt that there are no covenants on the land preventing the erection of fencing or that the Appellant has sought to follow relevant procedures correctly. However, these points have not affected my decision, which is based on the planning merits of the proposal.

Conclusion

12. I have found that the erection of the fence has caused substantial harm to the character and appearance of the area which is not outweighed by any other matter. I therefore dismiss the appeal.

Jonathan Clarke

INSPECTOR