

Appeal Decision

Site visit made on 22 March 2017

by Timothy C King (BA Hons) MRTPI

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

Decision date: 4th May 2017

Appeal Ref: APP/V2825/D/17/3170076

490 Obelisk Rise, Kingsthorpe, Northampton, NN2 8SX

- 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 Richard Kaiser against the decision of Northampton Borough Council.
 - The application Ref N/2016/1037, dated 28 July 2016, was refused by notice dated 17 November 2016.
 - The development proposed is *'Low level fence to front garden built from timber feather edge fencing kept below 900mm height.'*
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Decision

1. The appeal is allowed and planning permission is granted for a feather-edge, timber, low level fence to front garden, below 900mm in height at 490 Obelisk Rise, Kingsthorpe, Northampton, NN2 8SX, in accordance with the terms of the application Ref N/2016/1037, dated 28 July 2016.

Procedural Matters

2. The fence at issue has been built without the requisite planning permission. It stands only 900mm high and would normally be permissible by an entitlement in the Town and Country Planning (General Permitted Development) Order. However, when planning permission was granted for Phase 5 of the New Boughton Green Estate in 1971 a condition was attached which restricts the erection of any form of boundary enclosure in front of the main wall of any of the dwellings permitted and thereby cancelled all such rights. Accordingly, formal planning permission is required for the development at appeal.
3. Although retrospective in nature I am required to treat it as a proposal, and have assessed the development on its own planning merits, or otherwise, rather than as an attempt to modify the condition referred to.

Main Issue

4. The main issue in this appeal is the effect of the proposal on the character and appearance of the surrounding area.

Reasons

5. The appeal property lies prominently at the junction of Obelisk Rise and Ash Rise, with its curtilage and new boundary fencing curving round to reflect the
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- line of footway. A narrow strip of shingle lies outside of the fence, meeting the back edge of the footway. The surrounding estate has a characteristic feeling of openness, redolent of its time, with dwellings' front curtilages largely unbounded and open to the footway and associated grass verges.
6. The appellant has presented me with a photograph to show the situation as existed previously, whereby a hedge, higher than the replacement fence, followed the garden boundary to the footway. This would have likely been an original feature and there are examples of such at properties further along Obelisk Rise. The appellant mentions that the previous owner had cut down the hedge and, upon moving in, he erected the fence to prevent litter from blowing into the garden. This is an understandable situation, and he indicates he was unaware of the restrictive condition.
 7. Policy E20 of the Northampton Local Plan (LP), reflected in the aims of Policy S10 of the West Northamptonshire Joint Core Strategy (CS), requires that the design of any building or extension should adequately reflect the character of its surroundings in terms of layout, siting, form, scale and use of appropriate materials. In this particular instance, whilst the fence's scale and siting may be appropriate its appearance, due to its prominent sweep and its shade, gives some sense of incongruity.
 8. On close inspection I noted that a border has been dug behind the fence and some planting undertaken which should grow and rise to soften the current impact and provide amelioration. I have also had regard to the fact that, despite the Council notifying neighbouring occupiers as to the planning application made as an attempt to retain the fencing, no representations were received. Similarly, the appeal has not given rise to any comment.
 9. Whilst this is a case where the development does not fully accord with the relevant policy I consider that the particular circumstances involved give mitigation to the planning position. Some form of boundary enclosure is required and, short of planting a new hedgerow, I am not convinced that any alternative, in the form of a low level wall, would be fully in character. This decision, therefore, is particular to this property and its individual circumstances, and any future such proposals must be taken on their own merits.
 10. I thereby conclude that the development would not be significantly harmful to the character and appearance of the surrounding area and, whilst I find that it is not in full accordance with the objectives of LP Policy E20, CS Policy S10 or relevant advice within the National Planning Policy Framework, other material considerations exist which weigh in the proposal's favour.
 11. For the above reasons given, and having had regard to all matters raised, the appeal succeeds.

Timothy C King

INSPECTOR