
Appeal Decision

Site visit made on 23 May 2017

by J A Murray LLB (Hons), Dip.Plan Env, DMS, Solicitor

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

Decision date: 31 May 2017

Appeal Ref: APP/V2635/C/17/3169248

Land at 16 Cameron Close, Heacham, King's Lynn, Norfolk, PE31 7LF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Elizabeth Mary Dingley against an enforcement notice issued by King's Lynn and West Norfolk Borough Council.
 - The enforcement notice, numbered 16/00211/UNAUTU, was issued on 16 December 2016.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a gate, fencing and fencing support posts in excess of 1 metre in height adjacent to a highway.
 - The requirements of the notice are: Ensure that the gate, fencing and fencing support posts adjacent to the highway are reduced in height to no more than 1 metre as outlined in red on the attached plan.¹
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Main Issues

2. The main issues are the effect of the development on the character and appearance of the area and on highway safety.

Reasons

Character and appearance

3. The appeal site is part of an estate of modest bungalows and houses. Though the dwellings are arranged in a fairly tight-knit pattern, green verges and predominantly open frontages create a spacious ambience. There are some low front fences, but more substantial boundary treatments are generally set back from the highway. I saw few exceptions to this, such that openness remains a valuable element of local distinctiveness.
4. Although the appellant says most people in the cul-de-sac say how nice the fence looks, several immediate neighbours dispute this. In any event, the appeal property occupies a prominent corner position and this high fence along

¹ The plan attached to the notice.

the side boundary is an obtrusive, hard feature, which conflicts with and detracts from the characteristic open feel of the locality.

5. The development therefore conflicts with Policy CS08 of the King's Lynn and West Norfolk Borough Council Local Development Framework – Core Strategy (CS) adopted July 2011. This policy requires all new development to be of high quality design which responds to the context and character of places in the Borough. This is reinforced by Policy DM15 of the King's Lynn and West Norfolk Borough Council Site allocations and Development Management Policies Plan, adopted September 2016. Among other things, this requires the scale, height, massing, materials and layout of development to respond sensitively and sympathetically to the local setting and pattern of adjacent streets. These policies are consistent with the National Planning Policy Framework (the Framework), which indicates that good design is a key element of sustainable development.

Highway safety

6. The Highway Authority says the height of the fence causes concerns in relation to vehicles emerging from the newly created access through gates in the fence. Having regard to the guidance in Manual for Streets², the visibility splay measured from a point 2.4m back from the carriageway edge should be 18m either side of the access, from obstruction over 1m high. This development achieves just 6.5m x 2.4m x 6.5m and my site visit confirmed that visibility is seriously restricted
7. Whilst traffic is light in this cul-de-sac location and speeds are low, this arrangement is detrimental to highway safety and contrary to CS Policy CS11 which, in line with the Framework, requires developments to provide for safe and convenient access. For drivers existing the adjacent dwelling at No 14, visibility to the right is also similarly restricted.
8. The Highway Authority also point out that part of the fence has been erected on land within the adopted highway and that the vehicle access has been created without its consent. However, it acknowledges that these are not planning matters and they can be addressed using other legislation. They have not, influenced my decision. Nevertheless, I conclude on the second main issue that the development is detrimental to highway safety.

Other matters

9. The appellant says that the fence has not "gone right up to the grass". However, she has not cited ground (c) and it is clear to me that the fence is sufficiently close to the highway to be characterised as adjacent to it, such that, being more than 1m in height, it cannot be permitted development by virtue of Class A.1 of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015.
10. Whilst I note the appellant's desire for security and privacy, it is not clear why that could not be achieved by a suitable fence, which is not adjacent to the highway. Indeed, I note that there was previously a high fence more in line with the flank elevation of the dwelling.

² Published by the Department for Communities and Local Government and the Department for Transport.

11. The appellant also says that the land now enclosed by the fence was previously used as a dumping ground for litter and dog mess. This is disputed by neighbours and I saw no evidence that any of the open verges in the vicinity were seriously affected in this way. In any event, this issue does not outweigh the harm identified.
12. The appellant also refers to her difficult financial circumstances, but this factor cannot be decisive in this case.

Conclusion

13. Having regard to my conclusions on the main issues and all other matters raised, I am satisfied that the appeal should be dismissed and planning permission should not be granted.

J A Murray

INSPECTOR