
Appeal Decision

Site visit made on 25 June 2018

by M Bale BA (hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 July 2018

Appeal Ref: APP/X1118/D/18/3198198

1 Shortacombe Drive, Braunton EX33 1JD

- 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 A Colley against the decision of North Devon Council.
 - The application Ref 63884, dated 1 October 2017, was refused by notice dated 14 December 2017.
 - The development proposed is the erection of a replacement wooden picket boundary fence at 1.8m high.
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Decision

1. The appeal is dismissed.

Procedural matter

2. I have altered the description of development in the heading above from that given on the application form, removing words that explain the development but do not themselves relate to acts of development. However, I have had regard to the stated explanations in the original description.
3. The development has already been carried out. The development at the site appears to be the same as that described in the plans. I have, therefore, considered the appeal on the basis of what I saw at the site, with regard to the plans.

Main Issue

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

Reasons

5. The area surrounding the site comprising Shortacombe Drive, Mint Park Road and East Meadow Road is characterised by dwellings that are generally set back from the road with large front gardens. The dwellings are mainly bungalows such that there is very little height within the street scene. Most front gardens have low or no front boundaries, or boundaries formed with planting. There are some examples of high boundary hedges and other soft landscaping in the street scene. However, these do not have the hard, solid appearance of fencing and combine with the generally grassed front gardens to give the area a landscaped appearance. Whilst the established building line itself may be of limited relevance to the position of boundary treatments, it combines with the above matters to give the area an open, spacious character.

6. There are a number of high fences spread throughout the wider area north of Saunton Road. Whilst this is all part of an area with a similar layout to the appeal site, the areas around Cavie Road and Mowstead Road have a different character with dwellings of a larger scale and Greenacre is some distance away. Examples of fences in these areas, therefore, have little bearing on the character of the 'sub-area' of Shortacombe Drive and the roads immediately around the appeal site described above. Sage Park Road is closer, but is a cul-de-sac that has a more enclosed feel to the other nearby roads so the fences here do not appear obviously intrusive in the street scene. At the corner of Homer Road and East Meadow Road is a particularly high fence. This is noticeably at odds with the prevailing character, but it is at the edge of the sub-area and its presence, even combined with others in the area, has not changed the overall open character and appearance of the area around Shortacombe Drive and the roads leading to it.
7. Within the sub-area immediately around the site, there are examples of other picket fences, including directly opposite the site and at the other end of East Meadow Road. Like the appeal proposal, these are sited right on the back edge of the footway, demarcating private from public space. However, whilst this means that some form of boundary treatment abutting the footway may be part of the area's character, consideration of the siting of the fence cannot be divorced from the effect of the height, which is greater than these other examples of similar styled fences.
8. The picket fence at the appeal site is of a lighter weight construction than a close-boarded fence, and allows the laurel planting to protrude through. However, it remains a hard, solid structure and its height, when combined with its siting on the property boundary makes it intrusive in the street scene. This will continue to be the case even once the timber has weathered and the planting has matured so a planning condition safeguarding the landscaping would not lessen the effect.
9. Overall, whilst the fence would be seen in the context of the picket fencing and hedging opposite, having regard to the other fences within the area, the siting and height of the fence is alien to and does not respect the prevailing character of the area harming its open, spacious appearance.
10. The reason for refusal indicates that the proposal is contrary to Policy DVS3 of the North Devon Local Plan (LP). However, this policy seems to be largely concerned with effects relating to privacy, daylight, light intrusion, noise, vibration and unpleasant emissions rather than those visual aspects relating to an area's character and appearance. This policy does not, therefore, seem to be directly relevant to my consideration of this main issue, which more appropriately falls to be considered under LP Policy DVS1 relating to design, which has been cited in the planning officer's report. The appellant has provided detailed evidence on this point, has also provided evidence in respect of the detailed wording of the reason for refusal and an assessment against Policy DVS1. Therefore, no injustice would be caused if I were to also assess the proposal against Policy DVS1.
11. Policy DVS1 requires development to achieve a number of design principles, although not all developments are expected to achieve all principles, depending on their scale¹. Whilst the development clearly distinguishes private space,

¹ LP paragraph 4.3

making it defensible and giving a feeling of influence, control and ownership it does not reinforce existing spatial patterns. The intrusion into the street scene does not reinforce the continuity of the street as it does not respond to the locally distinctive pattern of development that characterises the area. Therefore, the proposal is in conflict with Policy DVS1 when the policy is considered as a whole.

12. The LP, and by extension Policy DVS1, predates the National Planning Policy Framework (the Framework) and does not reflect the wording of the presumption in favour of sustainable development. Nevertheless, the policy does concentrate on guiding the principles surrounding various design components including scale, layout and height, and its purpose is consistent with the Framework's overarching principle to secure high quality design. Therefore, in accordance with Paragraph 215 of the Framework, I give the conflict with Policy DVS1 significant weight. Furthermore, the proposal fails to improve the character and quality of the area and, therefore, it conflicts with the policies of the Framework when considered as a whole such that any benefits would not significantly and demonstrably outweigh the harm that I have identified.

Other matters

13. I have considered the fallback position of reducing the fence to 1 metre high, or reducing it to 1.4 metres high but repositioning it behind the laurel hedge as suggested by the Council. However, both options would result in a fence that was significantly less intrusive in the street scene than the current fence and, therefore, I give any ability to carry out this alternative development very limited weight. I have also had regard to the suggestion that a number of fences could be erected up to 1 metre high throughout the area under permitted development rights. However, this is not the character or appearance of the area now, and in any case these fences would still be considerably lower than the appeal fence. The potential for the area to change in this way, therefore, is of limited weight.
14. It has been suggested in the appellant's statement that dismissing the appeal could result in an interference with their Human Rights as expressed in Article 8 of the Human Rights Act 1998 by affecting the way that they wish to use the land in connection with the home and the potential for breaches to cause safety concerns. However, I am satisfied that the legitimate planning policy aims to protect the character and appearance of the area in the public interest can only be safeguarded by a refusal of permission and such would be proportionate in this case so it would not lead to any violation of Article 8 nor Article 1 of the First Protocol which relates to the protection of property.

Conclusion

15. For the reasons given above I conclude that the appeal should be dismissed.

M Bale

INSPECTOR