



Appeal Decision

Site visit made on 1 August 2019

by D Child BA BPL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2019

Appeal Ref: APP/M2325/W/19/3227066

**176 St Leonard's Road East, St Annes on Sea, Lytham St Annes,
Lancashire FY8 2HL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Ms Allison Hayhurst against the decision of Fylde Borough Council.
 - The application Ref 18/0317, dated 10 April 2018, was approved on 22 March 2019 and planning permission was granted subject to condition.
 - The development permitted is raising of perimeter wall and installation of infill fence panels between brick piers to an overall height of 1.9 metres to boundaries with St Leonard's Road East and Dorset Road.
 - The condition in dispute is No 1 which states: That the brick piers and fence panels/gates to the entire St Leonards Road East and Dorset Road boundary of the property, and the timber fencing that returns from this perimeter boundary to the dwelling on both street aspects shall be reduced to a height that does not exceed 1m in height measured from pavement level on the respective road no later than the earlier of 31 January 2021, or 3 months from the date when Jack Hayhurst has not resided at the property for a single period in excess of 6 months.
 - The reason given for the condition is: As this planning permission has been granted on the basis that the personal needs of the occupier outweigh the harm to the streetscene it is necessary to limit the duration of the planning permission and so mitigate the harm that is caused by the development so that this planning balance can be reassessed prior to the works becoming lawful. This is to ensure accordance with Policy GD7 of the Fylde Local Plan to 2032.
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Decision

1. The appeal is allowed, and the planning permission Ref 18/0317 for the raising of perimeter wall and installation of infill fence panels between brick piers to an overall height of 1.9 metres to boundaries with St Leonard's Road East and Dorset Road, at 176 St Leonard's Road East, St Annes on Sea, Lytham St Annes, Lancashire FY8 2HL, granted on 22 March 2019 by Fylde Borough Council, is varied by deleting condition No 1.

Preliminary Matter

2. The brick piers and fence panels/gates were erected at the time of my visit. I shall proceed to consider the appeal on this basis.

Background

3. The application sought planning permission for the erection of brick piers and infill fence panels and gates, to a height of 1.9 metres. Following negotiations which culminated in the dark staining of the timber infill panels, planning

permission was granted subject to a single condition. The condition requires that the brick piers, fence panels, gates and side fences, on both street aspects, be reduced to a height that does not exceed 1m.

4. The required period for compliance under the condition is no later than the earlier of 31 January 2021 or 3 months from the date when a named occupier has not resided at the property for a single period in excess of 6 months. The reason stated for the condition is, in effect, that the development is only acceptable on a temporary basis, due to harm to the street scene, harm that is only justified by the personal circumstances of an occupant. On expiry of the lesser of the two periods, the Council wishes to reassess the planning balance.
5. The appellant contends that the development is not harmful to the street scene, or the character and appearance of the area; the appeal therefore seeks removal of the condition.

Main Issue

6. The main issue is whether the condition is reasonable and necessary, in order to safeguard the character and appearance of the area, having particular regard to the street scene.

Reasons

7. The appeal dwelling is a two-storey semi-detached property, situated on a corner plot at the junction of St Leonard's Road East with Dorset Road. Dwellings on the same side of both streets as the appeal site are predominantly of two-storey detached/semi-detached design. The front boundaries of dwellings in the area are generally defined by low brick walls.
8. In support of the application, a number of other properties in the area that have similar forms of boundary treatment were referred to. The Council states that none have the benefit of planning permission, but due to the passage of time, they have become immune from enforcement action. As a result, they have become an established part of the character and appearance of the area.
9. The timber fence erected behind the low brick wall to the boundary of the property on Dorset Road on the opposite corner of the junction is of a similar appearance and height to the appeal development. The mature hedge to the same property on the St Leonard's Road East frontage is of a similar, if not greater height. Because of this, the appeal development visually aligns with the boundary treatment on the opposite corner of the junction in views along both streets and appears balanced in the street scene. The timber gate and side boundary fences that return to the dwelling are not visually prominent.
10. Mature tree planting and landscaping within the garden of the host dwelling far exceed the height of the appeal scheme. As a result, views of the dwelling from adjoining streets are restricted in any event, and the development does not therefore deprive the street of an active frontage that would otherwise exist.
11. The existing landscaping and the dark stain finish of the timber infill panels soften the impact of the appeal scheme in views from adjoining streets. The bricks used to construct the piers are of a similar size and colour to the original wall and respect those of existing boundary walls in the locality. The sense of the low wall is retained by the use of brick piers and timber infill panels.

12. As a result, the development is neither oppressive or incongruous in the street scene. I accept that because the dwelling is semi-detached, the boundary treatment does not follow the original wall of the adjoining property. This is not an uncommon arrangement for semi-detached properties, and, in my opinion, of itself this arrangement does not give rise to any unacceptable visual harm.
13. I appreciate that the Council has sought to arrive at a balanced and pragmatic decision, balancing the personal medical needs of the appellant's family against what it perceives to be the harmful effect of the development on the character and appearance of the area. Nevertheless, for the above reasons, I find that the development does not cause undue harm to the character and appearance of the area, having particular regard to the street scene.
14. Accordingly, the development does not conflict with the environmental and visual amenity protection aims of Policy GD7 of the Fylde Local Plan to 2032 (2018). Nor does it conflict with the policies of the revised National Planning Policy Framework (2019). Consequently, the condition is not therefore necessary.

Other Matters

15. In support of the appeal my attention has been drawn to a number of other fences which have been more recently constructed. However, the Council considers that as these are in more remote locations and do not enclose the entire site boundaries, they are not therefore directly comparable. In any case, I have considered the appeal development on its own merits.

Conditions

16. Because the dark staining of the timber infill panels has already taken place, I agree with the Council that the use of conditions is not required.

Conclusion

17. I therefore conclude that the appeal should succeed, and planning permission should be granted without the disputed condition.

D Child

INSPECTOR