



Appeal Decision

Site visit made on 20 February 2020

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 March 2020

Appeal Ref: APP/E2001/W/19/3241466

19 Ferriby Road, Hessle HU13 0RG

- 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 Alan Phelan against the decision of East Riding of Yorkshire Council.
 - The application Ref 19/00110/PLF, dated 10 January 2019, was refused by notice dated 22 May 2019.
 - The development proposed is described as the "removal of existing dilapidated 118 year old brick retaining wall and front hedge, excavation of mounded soil in elevated front garden to create street level parking and replacement of wall with modern equivalent with boarded gates."
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Decision

1. The appeal is allowed and planning permission is granted for the development described as "the removal of existing dilapidated 118 year old brick retaining wall and front hedge, excavation of mounded soil in elevated front garden to create street level parking and replacement of wall with modern equivalent with boarded gates" at 19 Ferriby Road, Hessle HU13 0RG in accordance with the terms of the application, Ref 19/00110/PLF, dated 10 January 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3230 Rev A BLOCK PLANS – EXISTING & PROPOSED, PROPOSED NEW PARKING AREA AND ACCESS FACILITIES dated Sept 18
 - 3) No construction of retaining walls or boundary treatments shall take place until a sample panel of the materials to be used in the construction of the of retaining walls and boundary treatments shall have been prepared on site for inspection and approved in writing by the local planning authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond, pointing technique and palette of materials to be used in the development. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.
 - 4) No construction of retaining walls or boundary treatments shall take place until there shall have been submitted to and approved in writing by the

local planning authority a scheme of landscaping to include a hedge along the boundary wall facing onto Ferriby Road and the details of the surface treatment of the street level car parking area. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first use of the car parking area or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) The boundary treatment and gate to Ferriby Road shall be constructed prior to the first use of the car parking area.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area, including the Hessel (Southfield) Conservation Area.

Reasons

3. Policy ENV3 of the East Riding Local Plan Strategy Document seeks to protect the significance, views, setting, character, appearance and context of heritage assets, both designated and non-designated, should be conserved, especially the key features that contribute to the East Riding's distinctive historic character including those elements that contribute to the special interest of Conservation Areas.
4. The area, including the Conservation Area, is characterise by front gardens with low brick walls, often with hedgerows above creating a verdant character and appearance for the area. The boundary treatments are specifically referred to in the Conservation Area Appraisal (October 2008) and thereby contribute positively to the significance of the Conservation Area.
5. The application proposes the removal of the existing boundary treatment, excavation to create a parking area and the erection of a wall and solid gates to replace the existing boundary treatment.
6. I am statutorily required¹ to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The Council has identified that the proposed development would cause less than substantial harm to the significance of the Conservation Area. The Framework advises that where a proposal would cause less than substantial harm to the significance of a designated heritage asset this harm should be weighed against the public benefits of the proposal². Any harm should require clear and convincing justification³.

¹ Section 72(1) - Planning (Listed Buildings and Conservation Areas) Act 1990

² Paragraph 196 - National Planning Policy Framework

³ Paragraph 193 - National Planning Policy Framework

7. However, the appellant states that the existing hedgerow and existing wall could be removed without the need for consent. Furthermore, the appellant has suggested that the existing hedge could be retained behind the proposed wall or a new one planted. This matter could be controlled by a suitably worded condition.
8. The submitted plans show that the proposed wall and gate is of a similar height to the existing treatment and, while at the site visit I did not note gates as being a common feature in the surrounding area, the use of appropriate materials could assist the new wall assimilate into the surrounding area and the gate would maintain the characteristic solid boundary treatment of the existing boundary wall and hedge arrangement. Again, this matter could be controlled by suitably worded conditions.
9. Subject to the conditions referred to previously, the appeal scheme would result in a low brick wall constructed from appropriate materials with a hedgerow behind for the majority of the frontage of the appeal site with Ferriby Road and with the presence of the gate creating an otherwise solid boundary treatment for the remainder of the frontage.
10. I therefore find that the proposed development would not harm the character and appearance of the area and would not harm the significance of the Conservation Area. As such, the appeal scheme is not contrary to policy ENV3 of the East Riding Local Plan Strategy Document.

Other Matters

11. I note the comments from local residents regarding a number of the examples of similar works provided by the appellant not being in the Conservation Area and other works being carried out without planning permission. I have determined the appeal on its own merits.
12. While I note the concerns that local residents have regarding the effect of the appeal scheme on the trees at neighbouring properties, however I have no substantive evidence before me that the works proposed would harm the trees referred to.

Conditions

13. The Council has not provided any suggested conditions other than "the standard conditions". I have considered the conditions in the light of the Planning Practice Guidance (PPG). In addition to the standard condition to limit the lifespan of the planning permission, I have specified the approved plans for the avoidance of doubt and in the interests of proper planning.
14. I have included conditions relating to the materials to be used in the construction of walls and requiring the provision and implementation of landscaping in the interests of protecting the character and appearance of the area. Finally, in the interests of protecting the appearance of the area I have imposed a condition requiring the construction of the boundary treatment to Ferriby Road prior to the first use of the car parking area.

Conclusion

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

Mark Brooker

INSPECTOR