
Appeal Decision

Site visit made on 5 January 2021

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2021

Appeal Ref: APP/M1710/D/20/3257135

34 Bulls Copse Lane, Horndean, Waterlooville PO8 9RA

- 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 Kevin Day against the decision of East Hampshire District Council.
 - The application Ref 55749/008, dated 10 February 2020, was refused by notice dated 13 May 2020.
 - The development proposed is the installation of 1.8m high fence.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of 1.8m high fence at 34 Bulls Copse Lane, Horndean, Waterlooville PO8 9RA, in accordance with the terms of the application Ref 55749/008, dated 10 February 2020, and the plans submitted with it, 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 and document: Buy A Plan Site Plan Ref #00496267-30EDA6; Buy A Plan Block Plan Ref #00496265-28852B; Drawing titled "*Design Drawing*"; and email from the appellant confirming that the fence will be brown in colour.

Procedural Matter

2. The description of development in the heading above is the description used by the Council and matches that on the appeal form. This is a more precise description of the development involved than that used on the planning application form.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. The site occupies a corner position on the junction of Bulls Copse Lane and Wilton Drive, within a suburban residential area. Front gardens are set behind a variety of frontage treatments. Low front boundary walls may have been the original predominant form of frontage delineation. However, close-boarded

- fences of a similar height to that of the appeal scheme, and in a similar position next to the pavement, are evident within close proximity to the appeal site.
5. The existing site frontage comprises a 1.8m to 2m high close boarded fence, which is set back approximately 1m from the back of the footpath, with a grassed strip between the fence and the path. The evidence before me is that retrospective permission was sought previously for a scheme similar to the appeal proposal, but that, following negotiations with the Council, the fence was set back to its current position. This accords with planning permission Ref 55749/003 granted in May 2017.
 6. There are also timber access gates of the same height as the fencing, which are positioned further forward, adjacent to the back of the footpath. These benefit from permission Ref 55749/006, which was allowed on appeal in January 2018.¹
 7. At the time of the determination of the previous appeal, laurel bushes were in situ within the metre strip between the fence and the site frontage. In allowing the appeal, the appeal Inspector noted the fast-growing nature of the laurel hedge. This, he considered, would soon become established to form dense hedging filling the depth of the metre strip and ensuring that the access gates would not stand forward of the remainder of the site frontage as a visually intrusive feature within the street scene.
 8. I saw, during my site inspection, that the laurel hedging is no longer in situ in front of the fence. The appellant has reported difficulties in maintaining the hedging, following the repositioning of the fence to its current position which blocks southern daylight to frontage planting. I have no cogent evidence before me to demonstrate the problems encountered in retaining this planting, nor details of the condition of the laurel shrubs prior to their removal. However, be that as it may, I note that the previous appeal Inspector did not impose a condition requiring the retention of the hedging, and that the gates now appear incongruously positioned in front of the remainder of the front boundary fencing. These are factors that I take into account in my determination of this appeal.
 9. The concrete fence posts which remain around the site frontage also appear visually discordant within the street scene. However, whilst the appellant considers these to be eligible for future retention, I have no evidence before me that a formal application for a certificate of lawfulness has been determined by the Council, and it is not for me under a section 78 appeal, to determine whether or not the existing fence posts are lawful. To that end, it is open to the appellants to apply for a determination under sections 191/192 of the Act. As such, I afford limited weight to the existing fence panels in my determination of the appeal.
 10. The proposal to align the frontage fencing with the existing timber gates, and to stain the timber a brown colour, would not appear out of place within the street scene, having regard to the aforementioned similar front boundary fencing which is located within close proximity to the appeal site, is highly visible within the street scene and contributes to the established character of this part of the townscape.

¹ APP/M1710/D/17/3187184

11. As such, I do not find that the appeal scheme would introduce a discordant or unsympathetic element to this part of the estate, and it would not appear unduly harmful within the street scene. In making this judgement I have had regard to the existing approved fence and the comparative impact of the appeal scheme on the townscape in relation to this. With the frontage hedge having already been removed, and without a mechanism to ensure its replacement, I find that the differences between the two schemes would not be so great as to result in demonstrable harm to the visual amenities of this part of the estate.
12. In light of the above, I find that the appeal scheme would not harm the character and appearance of the area. As such, the proposal would accord with Policy CP29 of the *East Hampshire District Local Plan: Joint Core Strategy* (2014) which, amongst other things, requires new development to comprise a layout and design that contributes to local distinctiveness and sense of place, and is appropriate and sympathetic to its setting.
13. For similar reasons, there would be no conflict with guidance in Chapter 12 of the Framework which requires high quality design.

Other Matters

14. I have acknowledged third party concerns in respect of highway safety. The Highway Authority has raised no objection in respect of the proposed fencing, and, following my site inspection, I am satisfied on this issue.

Conditions

15. In addition to the standard implementation condition, it is necessary to define the plans in the interests of certainty.

Conclusion

16. For the above reasons, I conclude that the appeal should succeed, and planning permission be granted subject to conditions.

S Leonard

INSPECTOR