
Appeal Decision

Site visit made on 12 January 2021

by Martin Small BA (Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th January 2021

Appeal Ref: APP/C1435/D/20/3261329

21 Willingdon Way, Willingdon, BN22 0NJ

- 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 Denis Langford against the decision of Wealden District Council.
 - The application Ref WD/2019/2204/FR, dated 8 October 2019, was refused by notice dated 19 December 2019.
 - The development proposed is erection of a 1.8 m high close-boarded fence 0.88 m from the boundary wall.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The fence has been erected. I have taken this into account in determining this appeal.
3. Class A, Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) sets out that the erection of a fence is permitted development, subject to limitations on height. For a fence erected adjacent to a highway used by vehicular traffic, other than for a school, the limitation is 1 m above ground level. The 'highway' includes the footway and verge as well as the road.
4. The fence is within 1 m of the boundary wall to the appeal property at the back edge of the footway. Notwithstanding the shrubbery planted between the wall and the fence, the fence clearly forms the boundary between the rear of the appeal property and the highway and is in excess of 1 m high. I therefore consider that, as a matter of fact and degree, the fence is not permitted development and requires a specific grant of planning permission. I have determined the appeal on this basis.
5. The Council's reason for refusal cites Policy BED1 of the Submission Wealden Local Plan 2019. However, this Plan was withdrawn in February 2020 and therefore does not form part of the development plan for the district. Policy BED1 is thus not relevant to my decision.

Main Issue

6. The main issue is the effect of the development on the character and appearance of the area, with particular regard to its height, siting and form.

Reasons

7. The appeal property is located within a mature residential area of bungalows and 2-storey dwellings set back from the highway forming a consistent pattern of development. Front boundaries are predominantly marked by very low brick walls which allow views into and over each property's front garden. Notwithstanding the appellant's contention that the estate was not developed as open plan, these well-kept semi-open frontages with a range of shrubs and flowers are a distinctive feature of the area and contribute substantially to its pleasant character and appearance. Although clearly private land, each frontage contributes to an attractive shared experience for residents and visitors.
8. The appeal property is on the corner of Willingdon Way and Meadows Road with open lawned areas between the dwelling and these highways. These open areas reflect and contribute significantly to the distinctive character of the area. The fence encloses part of the area facing Willingdon Way and its solidity is clearly at odds with the prevailing strong semi-open character. Due to its siting and height the fence is clearly visible from both Willingdon Way and Meadows Road and extends forward of the pattern of built form in the area which increases its prominence and incongruity. Although the shrubbery planted between the fence and the front boundary wall could, in time, soften its visual impact, the fence would remain a substantial feature.
9. The appellant refers to other properties with similar height fencing close to their boundary walls, identifying the property opposite, No 12 Willingdon Way (No 12) and two properties on the corner of Downs Road and Summerlands Road. I saw these fences during my site visit but find that they are not characteristic of the area. The Council's delegated report indicates that the fence at No 12 was erected without planning permission and I am not aware of the circumstances in which the others have been erected. I am not persuaded therefore that the other existing fences in the area justify that before me and, in any event, I have determined this appeal on its own merits.
10. The appellant also refers to complimentary comments on the development from passers-by and the occupiers of the neighbouring property, No 19 Willingdon Way. However, I have no evidence of any support for the development and I note the objection of Willingdon and Jevington Parish Council.
11. I therefore conclude that the development significantly detracts from the character and appearance of the area. Accordingly, it is contrary in this respect to saved Policy EN27 of the Wealden Local Plan (1998) and the Wealden Design Guide 2008 Supplementary Planning Document, which seek to ensure that the design of new development respects the character and local distinctiveness of an area. Policy EN27 is consistent with paragraphs 124, 127 and 130 of the National Planning Policy Framework, which promote good design and with which the development thus also conflicts.

Other Matters

Ashdown Forest

12. I am satisfied that given the nature of the development it has not given rise to any likely significant effects on the integrity of the Ashdown Forest Special

Protection Area or Special Area of Conservation from recreational pressure or increased traffic movements.

Other considerations

13. I sympathise with the appellant's wife's medical condition but from the evidence before me this has not necessitated the erection of the fence. It is therefore not a consideration that indicates a decision other than in accordance with the development plan.

Conclusion

14. For the reasons given above, and having had regard to the other matters raised, the appeal is dismissed.

Martin Small

INSPECTOR