The Planning Inspectorate

Appeal Decision

Site Visit made on 30 June 2021

by Mrs J Wilson BA (Hons) BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 07 July 2021

Appeal Ref: APP/Z3635/D/21/3272490
181 Elizabeth Avenue, Staines-Upon-Thames, TW18 1JN

- 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 Simon Bull against the decision of Spelthorne Borough Council.
- The application Ref 20/01576/HOU, dated 22 December 2020, was refused by notice dated 26 March 2021.
- The development proposed is the retention of boundary fence and the erection of an additional fence and gates.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. As part of the appellant's case it is advanced that the outcome of this appeal decision engages his rights under Articles 1 and 8 of the European Convention on Human Rights. Article 1 concerns the protection of property and Article 8 deals with the right to respect for family life and the home. These are qualified rights, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. I have approached my findings having regard to these matters.

Main Issue

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

Reasons

4. The appeal property is located in a prominent position at the eastern end of Elizabeth Avenue where the road curves around towards Hazel Grove. It is particularly visible when approaching along Elizabeth Avenue as it is set forward of other properties. The boundary fence which has already been erected encloses three sides of the garden from the front corner of the recently extended property to the point of the existing garage. There is a mature tree between the property and the pavement and this tree is now enclosed within the garden.

5. Frontages in this part of Elizabeth Avenue are characterised by grassed verges with planting including a number of mature trees in verges and gardens. Houses to the south and west of the appeal site are well back from the roadside edge with grassed areas between them and the road. I saw that front gardens of properties along Elizabeth Avenue are characterised by open

frontages and to the west of the appeal site are school grounds which, whilst enclosed by open palisade type fencing, retain views through to the school fields. These features create a pleasant sense of openness in the area and the appeal property is approached and seen in this leafy context.

6. The fence due to its height, solidness and proximity to the highway represents a discordantly hard and oppressive feature which is distinctly at odds with the prevailing character described above. It is a conspicuous feature when approached from either direction and is visually jarring against the dominant verdant character.

7. The addition of a further section of fencing, albeit partially screened by the hedging along the approach to Edward Court, would exacerbate the visual impact and would further erode the open character of the area. It would fail to make a positive contribution to the street scene and would be visually harmful detracting from the open nature of the street scene especially at the entrance to Edward Court.

8. For these reasons the proposal is, and would be, contrary to Policy EN1 of the Spelthorne Development Plan - Core Strategy and Policies Development Plan Document (2009) and to the aims of the National Planning Policy Framework at paragraphs 124, 127 and 130 which together seek to ensure that developments add to the overall quality of the area, are sympathetic to local character, maintain a strong sense of place and incorporate landscaping to enhance the setting of development, including suitable boundary treatments.

9. In reaching this conclusion I have taken into consideration that there are examples of timber garden fences elsewhere in the vicinity. However, many of those were set back from the footway with planted areas between them and the road. Those which were on the edge of the footway were in far less prominent positions than that at the appeal property.

Other Matters

10. The appellant argues that the positioning of the house, when compared to others in the Avenue represents a unique plot; and that there has been a change in the character with the front door moved from the side to the front of the house. That may be so, however the recent extension does not alter the prominence or visual impact of the fence and does not affect my findings.

11. The appellant also highlights that the fence does not impact on any of the neighbouring properties. It is no part of the councils case that the fence has any adverse impacts on neighbours and this factor does not alter my conclusions.

12. My attention has been drawn to examples of fencing at the entrance to Matthew Arnold Close and in Hazel Grove which I viewed on my visit. Those examples differ from this appeal in that the fences are set back from the footpath edge with planting or grassed areas in between. These circumstances differ from the appeal proposal.

13. I have noted the appellants' wish to achieve a means of enclosure in order to provide security in an area where there is a heightened problem with street crime as demonstrated by the presence of police warning signs in the area. Additionally, the appellant states that antisocial behaviour is commonplace with rubbish continually left on open areas of garden and dog fouling a persistent

problem. I am sympathetic to these issues however a means of enclosure could be achieved through alternatives other than a solid timber fence.

14. Reference has been made to a property in Staines where the appellant contends a similar application was refused and then overturned on appeal. I have not been provided with the details of that case and cannot know whether the circumstances are comparable. As such it does not affect my findings in relation to this appeal.

15. I note the frustration expressed by the appellant that the Covid 19 restrictions meant that a site visit was not carried out by the Council. Whilst understanding those frustrations I have visited the site and considered the evidence provided by the appellant and the Council before reaching my decision.

Human rights

16. Dismissal of the appeal will involve some interference with the occupiers' rights to respect for private and family life under Article 8 of the European Convention on Human Rights and the right to protection of property, including peaceful enjoyment of possession under Article 1 of the First Protocol. However, these are qualified rights. The interference will be the minimum necessary to achieve the legitimate aim of protecting the character and appearance of the area, and a refusal of permission would be proportionate and necessary. The protection of the public interest cannot be achieved by means that are less interfering of the appellants' rights.

Conclusion

17. For the above reasons, and taking all other matters into consideration, the appeal is dismissed.

Mrs J Wilson

INSPECTOR