



Appeal Decision

Site visit made on 7 December 2021

by Richard Newsome BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 December 2021

Appeal Ref: APP/E2001/D/21/3281727

140 St Johns Avenue, Bridlington YO16 4NW

- 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 James Carter against the decision of East Riding of Yorkshire Council.
 - The application Ref 21/01268/PLF, dated 31 March 2021, was refused by notice dated 11 June 2021.
 - The development proposed is the completed works involved installing a 940mm fence fixed directly to a 760mm high brick wall. The overall height 1700mm from the footpath to the top of the fence.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Permission is sought retrospectively for the development described above. Notwithstanding this, I note that part of the development that has been carried out differs slightly from the plans before me in that there are some small sections of timber fencing not on top of brick walls, but which are the same overall height. I consider this is not a significant or material difference and does not affect the main issues of the appeal. I have therefore proceeded with considering the appeal on the basis of what has been developed as no party would be prejudiced or caused any injustice by me taking this course of action.
3. Following the Council's determination of the planning application the revised National Planning Policy Framework (the Framework) was published. However, there are no substantive changes relevant to the appeal before me and therefore no party would be prejudiced by my referring to the 2021 version of the Framework.

Main Issues

4. The main issues are i) the effect of the development on the character and appearance of the existing dwelling and the area, and ii) the effect on the living conditions of neighbouring residents at No 138 St Johns Avenue with particular regard to outlook, sense of enclosure and overshadowing.

Reasons

Character and Appearance

5. The appeal site is located at No 140 St Johns Avenue on the corner of St Johns Avenue and Bessingby Road. The appeal site is on the edge of a residential

area comprised of semi-detached and terraced dwellings. There are also a number of commercial uses in the locality. Dwellings are predominantly set back a short distance from the highway generally behind low walls, sometimes with railings inset or on top, or hedges immediately behind.

6. The fencing which is of modern timber style designed to be easy to maintain fronts on to both St Johns Avenue and Bessingby Road. However, it is inconsistent with the prevailing boundary treatments to the front of dwellings in the locality. Given its location, scale, extent along the frontages of No 140, and the materials used it is an incongruous addition to the street scene in a prominent corner location on a junction of two busy roads. Although No 140 is set-back from Bessingby Road this does not diminish the impact of the fencing on this frontage to a main arterial route into Bridlington used by holiday traffic.
7. Part of the building to the frontage on St Johns Avenue screened by the fencing located to the back of the footpath is only single storey. The lower height of the dwelling here and the proximity of the adjacent fencing amplifies the dominant effect of the fencing in relation to this part of the dwelling and the street scene.
8. For these reasons I conclude that the development harms the character and appearance of the existing dwelling and the area. The development is contrary to Policy ENV1 of the East Riding Local Plan 2012 – 2029 Strategy Document (2016). This requires that development proposals contribute to safeguarding and respecting the diverse character and appearance of the area through their design, and that they achieve a high quality of design that optimise the potential of the site and contribute to a sense of place. It is also contrary to paragraphs 130 and 134 of the Framework and the National Design Guide, which amongst other things, require that developments are sympathetic to local character and are of a high quality of design.

Living Conditions

9. Part of the fencing has been erected on the front boundary between No 138 St Johns Avenue and No 140. It is located close to No 138 and has an effect on the previously open outlook across the adjacent front of No 140. However, this outlook is relatively oblique, and due to the location and scale of the fencing it does not result in a significant enclosing effect on the ground floor bay window. Therefore, outlook from the window at No 138 is not restricted so as to be unacceptably harmful to the occupants.
10. The fencing will result in some element of overshadowing to the ground floor bay window at No 138 because it lies to the immediate south of this window. However, due to the location and scale of the fencing, and the orientation of the dwellings at No 138 and No 140 the effect on the levels of sunlight at No 138 is limited. Therefore, I find the effect on overshadowing to be acceptable.
11. I therefore conclude that the development is not unacceptably harmful to the living conditions of the occupants at No 138 and is consistent with Policy ENV1 of the East Riding Local Plan 2012 – 2029 Strategy Document (2016). This requires that development proposals have regard to the amenity of existing properties. It is also consistent with paragraph 130 f) of the Framework, which amongst other things, requires that developments create places with a high standard of amenity for existing and future residents.

Other Matters

12. I note comments that the erection of the fencing has resulted in a reduction in anti-social behaviour, including relating to the activities of people sitting on the wall outside No 140, and helps as a crime deterrent. There is clearly some crime in the area as evidenced by the appellant and the installation of the feature at No 138 which appears to be intended to provide security for the dwelling. However, whilst I recognise the valid concerns about anti-social behaviour and crime, I consider that alternative security measures are potentially available that would also act as deterrents and which would have a less detrimental appearance than the current fencing.
13. I have carefully considered the correspondence from a current occupant of No 140 about their personal circumstances and the sense of privacy and security the fencing provides them. However, I am also mindful of the advice in Planning Practice Guidance¹ that in general planning is concerned with land use in the public interest. It is also likely that the fencing would remain long after the current personal circumstances cease to be relevant. Therefore, whilst I find that these circumstances are a material consideration to which I attribute weight they are not sufficient to outweigh the harm that is caused by the fencing and it being contrary to the development plan.
14. There is clear evidence of littering associated with nearby commercial activities being an issue in the area. Whilst I acknowledge the appellant's desire to address this in relation to the frontages of No 140, the erection of the fencing appears to be a disproportionate solution to the issue.
15. I recognise that the fencing may have been erected for some time and that the occupants at No 138 may not have objected at the time of its erection. However, this does not diminish their right to object in respect of the proposals or their concerns about them.
16. The appellant has provided details of a comparison fence. However, I do not have the full details about that fence before me, including its location, and if and why the proposal was acceptable to the Council. Notwithstanding this, I have determined this appeal on its individual planning merits.
17. I acknowledge that there is local support for the fencing from the occupants of No 54 Bessingby Road and Bridlington Town Council, and that the appellant has attempted to work with the Council to arrive at a compromise since the refusal. However, my decision must be based on the development before me and in light of the foregoing no other matters are sufficient to outweigh my overall conclusion regarding the unacceptability of the fencing.

Conclusion

18. For the reasons outlined above, having considered the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

Richard Newsome

INSPECTOR

¹ Paragraph 008 Reference ID 21b-008-20140306 – 'What is a material planning consideration?'