



Appeal Decision

Site visit made on 21 February 2022

by Susan Heywood BSc(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8th March 2022

Appeal Ref: APP/E2001/W/21/3284739

14 St John's Walk, Bridlington YO16 4HJ

- 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 & Mrs Giles against the decision of East Riding of Yorkshire Council.
 - The application Ref 20/02994/PLF, dated 8 September 2020, was refused by notice dated 12 April 2021.
 - The development proposed is erection of 3 No. 4 bed houses on land east of 14 St John's Walk, Bridlington.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr & Mrs Giles against East Riding of Yorkshire Council. This application is the subject of a separate Decision.

Procedural matter

3. The appellants argue that planning permission is not required for the erection of the 1.8m high fence along the front boundary of the property. Within the context of an appeal under section 78 of the Town and Country Planning Act 1990 (the Act) it is not within my remit to formally determine whether any part of the proposed development requires planning permission. The appeal before me includes the fence and I am required to consider the scheme before me as a whole. If the appellants wish to ascertain whether the erection of the proposed fence would be lawful, they may make an application under section 192 of the Act.

Main Issues

4. The main issues in this appeal are:
 - the impact of the development on the character and appearance of the surrounding area; and
 - the impact on the living conditions of the occupiers of nearby properties having regard to the potential for noise and disturbance from the proposed parking and access area and to overlooking and loss of privacy from the proposed dwellings.

Reasons

Character and appearance

5. The appeal site forms the existing side and rear garden to No. 14 St John's Walk. To the north of the site St John's Walk is a tight-knit residential street characterised by two storey terraced properties set close to the road. No. 14 is an attractive period property located at the southern end of the terrace. The property is different in character to its neighbours to the north as its wide gable end contains its main entrance door and two square bay windows at ground level face its side garden. No. 12 to the south of the site is also a distinctive period property. Nos. 12 and 14 are located at a point where the road bends and the environs become more open and spacious. Part of this openness is provided by the appeal site which comprises the existing garden area to the rear and side of No. 14. On the opposite side of the road runs a watercourse with some trees along its banks and views beyond of open space.
6. The existing low boundary wall and mature hedge to the front boundary of No. 14 curves to follow the back edge of the pavement around the bend in the road. A boundary hedge continues along the frontage of No. 12. The result is a long frontage of greenery, forming an attractive feature which enhances the character of the street-scene.
7. The proposal would result in the removal of the existing hedge to the front boundary of No. 14 and its replacement with a 1.8m high timber fence set back from the front wall at an angle to achieve an appropriate visibility splay. The removal of the hedge does not require planning permission, but it currently provides screening and privacy for the garden area to No. 14 and I therefore consider it unlikely that it would be removed in the absence of the development proposal. Even if it were to be removed, in the absence of the proposed development, its removal would further open up the appeal site allowing views of the existing garden and increasing the openness of the area.
8. As set out above, I must consider the impact of the proposed fence as it is included in the appeal before me. The straight alignment of the fence would fail to reflect the curved aspect of the front boundary wall. Together with its height and prominent location on a bend and sited close to the road, the fence would be a stark, hard feature which would not reflect the character of the existing property or its immediate surroundings and would harm the appearance of the street in this location. Any planting between the fence and boundary wall would necessarily be low so as not to obstruct visibility and, as such, it would be unlikely to provide sufficient softening to effectively overcome the visual harm caused by the design and siting of the fence.
9. I have considered the potential fallback position of the erection of the fence if it subsequently transpired, on application under section 192 of the Act, that planning permission was not required. However, the reason for the removal of the hedge and replacement with a fence with the alignment proposed is to provide the necessary visibility splay at the access point. There is no evidence to suggest that it is likely that a fence would be erected in this position in the absence of the proposed development. Accordingly, I give limited weight to this as a potential fallback position.
10. I turn now to consider the layout of the proposed development and, in particular, the design of the proposed parking forecourt. The number of

dwelling proposed on the site leads to the requirement for 8 parking spaces which would be provided on a hard surfaced parking area to the front of the proposed dwellings. The proposed dwellings would have no front gardens or soft landscaping between the parking forecourt and their front elevations.

11. Although the parking area would be screened to an extent by existing vegetation in the front garden of No. 12, it would be visible from the street through the access point. Whilst much of this area is already hard surfaced, part of the grassed garden area is currently visible when the existing gate is open. The view as a result of the proposal would be of hard surfacing, 1.8m high fencing to the front boundary and delineating the garden area for No. 14, parked vehicles and the dwellings themselves. The result would be a development dominated by hard surfaces, unrelieved by any effective soft landscaping. This would be stark, harsh and unattractive and would harm the appearance of the street. Whilst the appellant indicates that planting could be incorporated into the parking area, there does not appear to be sufficient space in the existing layout for anything other than minimal planting which would be unlikely to overcome the above concerns.
12. Turning to the proposed dwellings themselves, the properties would be viewed as a continuation of the row of properties from 2 – 12 St John's Walk. They would be a similar height to those existing properties and their front dormer windows at second floor level would reflect those on the adjoining row of terraced properties and many of those on St John's Walk to the north. The proposed dwellings would be set back from the road, thus retaining the openness at the front of the site. Although they would fill much of the plot width, this is not uncommon in this area where the properties are predominantly terraced or semi-detached with little space between them and their plot boundaries. Accordingly, I am satisfied that the scale, form and layout of the properties themselves would not appear unduly dominant or out of character with the surrounding area.
13. Notwithstanding my conclusion on this latter point, for the above reasons, I conclude that the proposed development would harm the character and appearance of the surrounding area. The proposal would fail to comply with Policy ENV1 of the East Riding Local Plan which seeks, amongst other things, to ensure that development safeguards and respects the character and appearance of its surroundings. It also encourages high quality design through soft landscaping and appropriate boundary treatment to enhance the setting of buildings and views. The development would also conflict with the National Planning Policy Framework (NPPF) which seeks to ensure that development is visually attractive and sympathetic to local character including incorporating effective landscaping.

Living conditions

14. The area of garden which would remain as amenity space for No. 14 would be separated from the proposed parking area and driveway by a 1.8m high fence. The development would result in vehicle movements in close proximity to that garden area. Four of the proposed parking spaces would also be close to windows in the side and rear elevations of No. 14. I agree with the Council that the noise and disturbance caused by the comings and goings and activity associated with the use of the parking area and driveway by occupiers of the

proposed properties would be harmful to the living conditions of the occupiers of No. 14.

15. Whilst it may be possible to ensure that two of the spaces closest to No. 14 were retained for the sole use of No. 14, this does not overcome the concerns regarding the noise and activity from the remainder of the parking area.
16. I acknowledge that the front boundary of the garden area currently adjoins the footpath and that parking can take place on the road outside No. 14. However, the existing garden area to No. 14 is large and there is therefore ample space for residents to enjoy the garden areas which are situated further away from the road. This is similar to other properties in the area which have private rear gardens set away from the road. The existing front boundary hedge will also serve to lessen the impact of noise from vehicles using the street due to its height and density. The proposal would lead to a considerably reduced size of garden belonging to No. 14 and would result in the removal of the front hedge. It would create the undesirable situation where the modest sized garden to No. 14 would be hemmed in on both sides by areas which are subject to vehicle movements.
17. Whilst the dwellings themselves may be modest in terms of their footprint, these are not small 1 or 2 bed dwellings. Each property contains 4 bedrooms and it is not unreasonable to expect that occupiers of properties of this size could have two vehicles, despite the sustainability of the location. This differs from the existing situation where the driveway and hard-surfacing areas within the garden are used only by the vehicles belonging to the occupiers of the one property at No. 14.
18. I turn now to consider the proximity of the proposed dwellings to surrounding properties, including No. 14. The northernmost property proposed on the site would directly overlook the eastern area of outdoor space to No. 14 at close proximity. The impact of overlooking from first and second floor windows in the proposed northernmost dwelling would cause a loss of privacy to the occupiers of No. 14 when using that area of garden. Whilst the appellant states that this area is only used for circulation, this may not always be the case and any future occupiers of No. 14 may wish to use this as part of the amenity space for the property. The remaining garden area for No. 14 is of a modest size relative to the size of the property and when compared to the amenity space available for many other properties of a similar size to the north. As such, it is particularly important that the entirety of the area is useable and is not overlooked at such close proximity as is proposed.
19. According to the Council's measurements, which are not disputed, the proposed dwellings would be located a minimum of 9.8m from the garden boundaries of the properties to the east on Borough Road and 20m from the rear elevations of those properties. I accept that the outlook for the occupiers of the properties to the east on Borough Road will change as a result of the development. However, the second floor rooms in the proposed dwellings are to be lit by rooflights rather than dormer windows to reduce overlooking from windows at second floor level. In addition, the distances between the existing and proposed properties would be similar to distances between dwellings in many residential areas. Indeed, a similar relationship exists between first floors of the existing properties at 3, 5 and 7 Borough Road and 6 – 12 St John's Walk. The proposed dwellings would not therefore cause significant

harm to the living conditions of the occupiers of the existing properties to the east, due to overlooking or loss of privacy, such that it would justify dismissing the appeal on these grounds.

20. The proposed dwellings would also be a sufficient distance away from the properties to the east so as not to result in a significant level of overshadowing of the garden areas to those properties. Noise from use of the properties and garden areas would also be no greater than would be usual in a residential area and this is therefore unlikely to cause significant harm to the living conditions of nearby occupiers.
21. Notwithstanding my conclusions in relation to the properties to the east, I conclude on this issue that the proposed dwellings would cause harm to the living conditions of the occupiers of No. 14 due to noise and disturbance from the proposed parking and access and due to overlooking and loss of privacy to part of the remaining garden area.
22. I note that the proposal was revised from the original design to move the proposed dwellings further from the existing properties to the east. This resulted in the overlooking issues to the west. However, this is not an unusual situation and the design of development schemes needs to take account of all aspects of the site. I am also required to consider the appeal before me rather than any earlier version of the proposal.
23. In seeking to encourage high quality design, Policy ENV1 states that development should have regard to the amenity of existing properties. The NPPF also states that development should provide a high standard of amenity for existing and future occupiers. For the above reasons, the proposed development would conflict with Policy ENV1 and the NPPF.

Other matters

24. Access to the proposed dwellings would be through the existing access point off St John's Walk. I note that it is possible for vehicles to park immediately to the north of the access point and to the south, between Nos. 12 and 14. In addition, the access is located close to a bend in the road.
25. However, the road is one way, with vehicles approaching from the north, and it has a speed limit of 20 mph. A speed hump is located just outside the property to the north of the access point. This will have the effect of slowing the majority of road users' speed on the approach to the access. In addition, vehicles emerging from the site would be likely to do so slowly in order to ensure that they can see any oncoming vehicles between parked cars. Visibility splays would be provided to the satisfaction of the highway authority, and this would allow vehicles using the access and those on the road to see each other.
26. I have taken account of likely pedestrian movements on the pavement close to the access point and the use of the pavements by children walking to school. However, the slow speeds of traffic emerging from the access would not pose a significant risk to pedestrians in this location.
27. I accept that occupiers of No. 12 would have to contend with increased traffic movements from the proposed dwellings when pulling out of their driveway to the south. However, even with a vehicle parked in between the two access points, drivers emerging from No. 12 would be able to see any vehicles

emerging from the appeal site. As above, both vehicles would be emerging slowly and as such, the proposal would not be likely to cause any significant highway safety problems. I also note that the highway authority has not raised any objections to the proposal.

Conclusion

28. For the above reasons, I conclude that the proposal conflicts with the development plan as a whole. Material considerations do not outweigh the proposal's conflict with the development plan. Accordingly, the appeal should be dismissed.

Susan Heywood

INSPECTOR