



Appeal Decision

Site visit made on 24 January 2022

by J Whitfield BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 April 2022

Appeal Ref: APP/E2001/C/21/3288849

138A and 140 St Johns Avenue, Bridlington, East Riding of Yorkshire YO16 4NW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr James Carter against an enforcement notice issued by East Riding of Yorkshire Council.
- The enforcement notice was issued on 19 November 2021.
- The breach of planning control as alleged in the notice is, without planning permission, the erection and alteration of a means of enclosure which is over 1 metre in height adjacent to a highway.
- The requirements of the notice are:
 1. Remove the fencing shown on the attached photos and marked in red on the attached plan 2 from the above property known as 138A St Johns Avenue being part of the Land.
 2. Remove the fencing shown on the attached photos and marked in red on the attached plan 2 from the above property known as 140 St Johns Avenue being part of the Land.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a correction.

The Notice

1. The alleged breach of planning control refers to the erection and alteration of a means of enclosure. Means of enclosure is a general term and lacks the precision necessary for an enforcement notice. Nevertheless, it is clear from the four corners of the notice that the alleged breach relates to the erection and alteration of fencing on the Land. I can therefore correct the notice so it refers to the erection and alteration of fencing rather than means of enclosure. Since it is clear from the notice the development against which it is directed, there would be no injustice to the appellant or the Council in doing so.

The appeal on ground (a)

Preliminary Matters

2. Planning permission for the fence was refused by the Council in June 2021. An appeal against that refusal was subsequently dismissed in December 2021. It

is indicated that the fence subject of the notice is the same as that which was subject of the previous appeal.

Main Issue

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

Reasons

4. The appeal relates to a building in residential use located on the corner of St John's Avenue and the A165. The surrounding area is predominately characterised by terraced and semi-detached dwellings set back from the road behind low walls and railings. Whilst there are commercial properties nearby, these are mainly located on the other side of the A165 and do not form part of the immediate character of the street scene.
5. The development subject of the notice comprises close boarded timber fencing. The fencing is approximately 0.9m in height. It has been erected on top of a 0.8m high brick boundary wall to the front and side of the property giving an overall height of around 1.7m. As a result, it appears at odds to the prevailing boundary treatment within the area and effectively screens from view the entire ground floor façade of the building. Moreover, given its height, close boarded design and use of materials, the fence appears as a particularly dominant and obtrusive addition to the street scene in an especially prominent location.
6. I conclude, therefore, that the development has a harmful effect on the character and appearance of the area. Consequently, it is contrary to Policy ENV1 of the East Riding Local Plan 2012-2020 Strategy Document (2016) which states that development should contribute to safeguarding and respecting the diverse character and appearance of the area. Moreover, it fails to accord with the provisions of paragraphs 130 and 134 of the National Planning Policy Framework which seek to secure high quality design.

Other Matters

7. The Council has previously raised concerns regarding the effect of the development on the living conditions of the occupiers of No 140. However, in the 2021 appeal decision, the Inspector found no such harm would occur. On that basis, the Council no longer seeks to pursue an argument that there is such harm. I see no reason to disagree. Nevertheless, any lack of harm in respect of living conditions does not outweigh the harm to the character and appearance of the area.
8. I note the fence provides privacy within the only private outdoor space to which residents have access. However, such benefits would not outweigh the harm I have identified. Likewise, I recognise the security benefits the fence provides. However, there is no evidence before me that alternative security measures which are less harmful to the character and appearance of the area have been explored. As a result, those benefits do not outweigh the harm here.
9. I note the lack of objection from Bridlington Town Council. I also note that the appellant states they were not aware that planning permission was required for the fence. However, such matters carry little weight in favour of the proposal.

Conclusion

10. For the reasons given above, I conclude that that the appeal on ground (a) should be dismissed and the deemed application for planning permission refused.

Decision

11. It is directed that the enforcement notice be corrected by the deletion of the words, "a means of enclosure", from section 3 of the notice and their substitution with the word "fencing". Subject to this correction, the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

J Whitfield

INSPECTOR