



Appeal Decision

Site visit made on 29 June 2022

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 July 2022

Appeal Ref: APP/E2734/C/21/3287335

20 Greenfields Avenue, Harrogate, North Yorkshire HG2 7BN

- 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 Beverley Jayne Fall against an enforcement notice issued by Harrogate Borough Council.
- The enforcement notice was issued on 11 October 2021.
- The breach of planning control as alleged in the notice is The construction of a timber fence and trellis in excess of 1 metre adjacent to a highway, its location indicated approximately as edged in blue on the attached plan.
- The requirements of the notice are Either i) Remove the timber fence, trellis and all fixings and materials used in its construction OR ii) Reduce the height of the timber fence and trellis to a height not exceeding 1 metre.
- The period for compliance with the requirements is One month.
- The appeal is proceeding on the ground 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 and variation in the terms set out below in the Formal Decision.

The appeal on ground (a)

Procedural Matter

1. For clarity, the alleged breach of planning control should refer to the fence being in excess of 1 metre "in height". I am satisfied that the notice can be corrected accordingly, without resulting in injustice to the appellant.

Main Issue

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

Reasons

3. The fence, subject of the notice, wraps around the side and front boundaries of the property. The appeal site is part of a suburban, predominantly residential area, in a prominent location at the corner of Greenfields Avenue and Greenfields Drive. Greenfields Avenue is characterised by two storey, semi-detached properties, many of which are set well back from the highway, with long front gardens.

4. Front boundary enclosures are a feature of Greenfields Avenue and Greenfields Drive, and include a variety of designs of fence and wall. These enclosures also vary in terms of height, however whilst there are exceptions, it seemed to me from my visit that where front enclosures have been built, rather than grown, they are mainly relatively short developments. The aforementioned streets and their surroundings are verdant, with boundary hedges, some of which are very tall, and mature planting commonplace.
5. When considering the lack of uniformity of boundary treatments and the softening effect of mature planting, the boundary fence, subject to the notice, does not appear severely obtrusive or incongruous. However, because of its height and length, the fence does form a continuous 'hard' and abrupt boundary with the highway, in what is a prominent location. As such the development is at odds with the predominant character of the street scene, and as such results in a degree of harm to that character.
6. I acknowledge that there are examples of tall front boundary treatments elsewhere in the locality, as brought to my attention by the appellant, some of which occur in the same street. I have not been provided with any significant details of the planning circumstances relevant to these cases. However from the Council's representations it appears that at least some may have gained lawfulness through the passage of time. Although the appellant is aggrieved about the apparent lack of a consistent approach by the Council to these cases this does not, however, alter my findings above with regard to street scene harm.
7. For the above reasons I find that the development results in harm to the character and appearance of the area. It is therefore in conflict with Policy HP3 of the Harrogate District Local Plan 2020 and with the National Planning Policy Framework insofar as they seek to promote high quality design that protects local distinctiveness. It would also be at odds with the Council's House Extensions and Garages Design Guide insofar as it sets out that timber panel fences to boundaries with the public highway are generally not acceptable.
8. The Council raises the concern that the fence does not allow for natural surveillance, in the interests of crime prevention. The fence as constructed means that there is very limited visibility over any external part of the appeal property from the public realm. I therefore have no reason to take a contrary view, although I do recognise that it would be very unusual for all external areas of a residential property to be exposed to public observation.
9. The appellant's countervailing argument is that the fence allows for increased privacy and security, which is particularly important in terms of ensuring children are able to play safely. I recognise that space at the rear of the property is constrained, thus explaining the appellant's desire to create a private garden where more space is available to the front and side. However I concur with the Council that such private aspirations, though understandable, would not be justifiable where there is, as in this case, harm to the street scene and therefore the public interest.
10. The appellant has suggested a compromise scenario, in the event that planning permission is not forthcoming, which would involve the retention of fencing to the side at existing height; to enable a private and secure garden to be kept, albeit with a smaller area. Whilst there are no plans before me setting out the

detailed layout of such a potential amendment, it is possible that an amended scheme may serve to alleviate the hard boundary at the front of the property.

11. Although the enforcement notice will be upheld, and despite the absence of an appeal under ground (g), I consider it would be appropriate to lengthen the time for compliance with the notice to six months. This would provide a reasonable opportunity for the appellant to make a planning application to the Council for amendments to the development, should it be possible to make a reasonable case, or in the alternative to comply with the requirements of the notice.

Other Matters

12. Interested parties have raised concerns about the fence with regard to highway safety resulting from impaired driver visibility and also regarding its impact on living conditions due to restricted natural light. Tall plants are in place behind the fence. It therefore seems to me that reducing the height of the fence would not improve the standard of driver visibility at the junction. Put another way, highway safety is made no worse by the existence of the fence in its present form. I am not provided with any information to persuade me that natural light to any nearby properties is detrimentally affected by the fence. These considerations do not however overcome the harm I have found above.

Conclusion

13. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decision

14. It is directed that the enforcement notice be corrected by the insertion of the words "in height" between the words "metre" and "adjacent" in Section 3.
15. It is directed that the enforcement notice be varied by the deletion of the words "One month" in Section 5, and the substitution of the words "Six months" instead.
16. Subject to the correction and variation, the appeal is dismissed, 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.

Roy Merrett

INSPECTOR