
Appeal Decision

Site visit made on 8 November 2022

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 6 December 2022

Appeal Ref: APP/R4408/C/22/3298174

44 Kingsway, Grimethorpe, Barnsley S72 7FJ

- 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 Rickylee Eagle against an enforcement notice issued by Barnsley Metropolitan Borough Council.
- The enforcement notice, reference 2022/ENQ/00130, was issued on 31 March 2022.
- The breach of planning control as alleged in the notice is as follows:
The erection of a fence adjacent to a highway exceeding 1 metre in height.
- The requirements of the notice areas as follows:
 - (i) Remove the existing fence panels from the land, including gravel boards and pillars that run adjacent to the highway as marked in Appendix 1 or,
 - (ii) Reduce the height of the existing fence panels (including gravel boards and pillars) that run adjacent to the highway as marked in Appendix1 so panels are a maximum of 1 metre
- The period for compliance with the requirements is one month.
- The appeal is proceeding on ground (a) only as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.

Decision

1. The Appeal is dismissed.

The Appeal fence and its surroundings

2. The appeal site is located on a bend on the north side of Kingsway. This is a relatively modern residential estate road to the north of Grimethorpe High Street. It links the High Street across to St Luke's Road to the east. The residential estate is composed of a variety of house styles. The road varies direction as it progresses through the estate and the appeal fence has been erected on the left-hand side of the highway (travelling east), as it bends to left. Kingsway is generally characterised with open plan frontages with driveways and lawned gardens to the fronts of the houses with associated footpaths, driveways and verges.

3. The close-boarded timber fence is approximately 6 feet in height (183cm) and is positioned immediately inside of the line of the footway. There are other timber fences of similar height within the estate but none exceeds a height of 1m immediately adjacent to Kingsway.

4. The appellant indicates that the fence has not changed in height and that it has simply been re-positioned adjacent to the footway in order to provide a safe environment for children to play. It is stated that the line of the fence was altered

about 3 years ago when the appellant first moved into the house and that, until now, has never been a problem. It was not realised that planning permission was required to adjust the fence and it is indicated that the land on which it is positioned is within the appellant's deeds to the property.

The appeal on ground (a)

The Main Issues

5. The main issues are firstly the effect of the fence in this location on the character and appearance of this part of Grimethorpe and, secondly, its effect on Highway safety along this particular curved stretch of Kingsway.

Relevant Policy

6. The relevant development plan policies are Policies D1 (High Quality Design and Place Making) and T4 (New Development and Transport Safety) of the Barnsley Local Plan (BLP). The Supplementary Planning Document, Walls and Fences (May 2019) is also relevant.

7. The National Planning Policy Framework (NPPF) is a major material consideration and sets out the Government's planning policies for England and how these are expected to be applied. Great importance is placed on the design of the built environment and the NPPF sets out that '*Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people*'.

Reasons

8. Having seen the fence in this location and having driven and walked around this part of Kingsway, I share the Council's concerns about its effect on both the physical environment and highway safety.

Effect on character and appearance

9. I agree with the LPA that this particular fence has resulted in a stark and incongruous feature within the streetscene. The basic close-boarded timber fence is highly visible when travelling along the highway, as well as from many of the surrounding residential properties. Despite the fact that there are many other fences on the estate, this particular one, on this particular bend in Kingsway, looks completely out of place. It is visually harmful to No 44, as well as to its immediate surroundings. I therefore find it contrary to Policy D1 of the UDP, as well as with the aims of the NPPF which seeks to achieve good design. I do not consider, therefore, that planning permission for its retention ought to be granted and it fails on this first issue.

Effect on Highway Safety

10. Unfortunately, due to its height and proximity to the highway it causes a visual obstruction for road users along this section of Kingsway. In whichever direction one is driving the tall fence impacts severely on onward visibility along the road. The fact that it is on one of the curves along Kingsway adds to the negative impact that it has had on road users. I agree with the Council, therefore that the fence is detrimental to highway safety and contrary to Policy T4 (New Development & Transport Safety) of the BLP.

11. It is also contrary to aims and objectives of the SPD, Walls and Fences (May 2019) and also to the NPPF which seeks to ensure safe and secure environments

for the community. Furthermore, I agree that if the fence is allowed to remain in its present location at its current height and design, it could set an unfortunate precedent, whereby others would seek to install similar fences which would be to the overall detriment of the character and appearance of this part of Grimethorpe.

Conclusion

12. In conclusion I consider that, as constructed in this position, the timber fence is an unacceptable development which has a negative effect on the character and appearance of the locality and is a significant risk to highway safety. I do not, consider that planning permission should be granted for its retention in this location and the appeal, therefore, must fail.

Other Matters

13. I can understand and sympathise with the appellant's desire to provide a safe play space for his family. However, the way in which this has been achieved has resulted in the harm to amenity and highway safety which I have identified above. In any case, having seen other boundary treatments in the locality, I consider that a safe play space could be provided by reducing the height of the fence to no more than 1m in height, as required by the notice. This objective could also be achieved by the provision of a wall of the same height or by the use of a planted boundary.

14. In reaching my decision I have taken into account all of the other matters raised by the appellant and the Council. However, none carries sufficient weight to alter my conclusion that the appeal fence should not be allowed to remain in place at a height which exceeds 1m.

Formal Decision

15. The appeal is dismissed and the enforcement notice is upheld. The application deemed to have been made under section 177(5) of the Act is refused.

Anthony J Wharton

Inspector