

Appeal Decision

Site visit made on 17 November 2022

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2022

Appeal Ref: APP/X3540/W/22/3297614

128 Carr Avenue, Leiston IP16 4AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Sam Last against East Suffolk Council.
 - The application Ref DC/22/0351/FUL is dated 26 January 2022.
 - The development proposed is described as 'I would like to move the boundary fence to the border of what is on the deeds of the property. The fence is currently running to the rear of the property which is adjacent to private car parking spaces with vehicular access for residents, this will not be moved any closer to the driveway or cause any obstruction to vehicles manoeuvring in or out of spaces. The fence then runs down to the side of the property to where it meets the house, this would be moved out to run along the pathway and extended to the front of the property. The fence will not be moved any closer to the area with vehicular access, only closer to the pathway and then extended to the front of the property. All of this will be done within the boundary deeds as per the HM Land registry document included when buying the house'.
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Decision

1. The appeal is dismissed and planning permission to move the boundary fence to the border at 128 Carr Avenue, Leiston IP16 4AT in accordance with the terms of the application Ref DC/22/0351/FUL, dated 26 January 2022, is refused.

Main Issue

2. The Council indicates that had it determined the application permission would have been refused. The reason is that the erection of the fence would create a negative environment which has potential to feel hostile and unsafe as a result of the pathway being narrowed and greenery lost from the public street scene which will cause harm to the character and appearance of the area.
3. Accordingly, the main issue is the effect of the proposed erection of the fence on the character and appearance of the street scene, including the effect on use of the adjacent public footpath.

Reasons

4. The appeal property is a two storey end of terrace dwelling in a residential estate of similar properties and semi-detached dwellings. The public footpath
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runs between the appeal property and No 126, providing access between the footpath to the front of the properties and a parking area to the rear.

5. Policy SCLP11.1 of the East Suffolk (Suffolk Coastal) Local Plan (2020), concerning design quality, says the Council will support locally distinctive and high quality design that clearly demonstrates an understanding of the key features of local character and seeks to enhance these features. Local Plan Policy SCLP11.2 concerns residential amenity and requires that development should not cause an unacceptable loss of amenity for existing or future occupiers in the vicinity.
6. Currently, No 128's side boundary fence to the back garden continues the line of the side elevation of the property. Next to this a grass strip separates the side elevation and boundary fence from the footpath running between the dwellings. This arrangement is replicated on the other side with regard to No 126. The proposal involves extending the boundary fence sideways to the edge of the footpath, from the front elevation of the appeal property to the rear garden boundary. Consequently, the majority of the grass area to the side of the property would be incorporated into No 128's garden.
7. The grass areas to either side of the path appear to be part of the original planned layout of the estate and as well as providing additional width to the pathway, they also soften the effect of the tarmac path, brick elevations and fencing to either side. As such, despite their limited width, these green areas make a positive contribution to the street scene and enhance the user experience of the pathway. As such, the loss of a large part of the green area next to the appeal property will reduce the softening effect, creating a harder urbanised appearance with a narrower, less expansive path between the properties. This harmful change would be readily apparent from the front of the properties and to those using the path.
8. The path itself is relatively short and is straight with views available from one end to the other. Consequently, sideways extension of the fence would not result in an oppressive change to the extent that it would be harmful to safety. It would, however, reduce amenity for users of the path through a narrowing of the available space and the loss of the existing greenery. It is also the case that should the appeal proposal be implemented it could create a precedent for similar development to No 126. While any such proposal would need to be considered on its merits, it is nonetheless possible that there could be pressure for further changes. Therefore, taking these findings as a whole, the proposed change to the position of the boundary fence would harmfully undermine the planned character and appearance of this part of the estate.
9. I acknowledge the appellant's contention that the footpath is little used, that lighting might be provided and that wheelchair access would still be possible. However, this does not overcome the harm that would result from the loss of the green area and the narrowing of the path to the character and appearance of the area, as well as to those who might use the path. Reference is made to a similar path between Nos 144 and 146 Carr Avenue. While this has gravel rather than grass in the areas either side of the path, I must determine the proposal based on the current circumstances related to the appeal site, which includes green areas. Moreover, despite the lack of grass either side of this

other path, it has retained its original width which would not be the case if the appeal proposal were implemented.

10. I note also that the appellant has maintained the grass area next to No 128 and that there are overgrown green areas in the surrounding estate. The appellant also questions whether there is an appropriate width for the path and whether this could be subject to negotiation. I must, however, give these matters little weight as I am required to determine the appeal proposal before me on its planning merits. Similarly, while the description of development refers to moving the fence in accordance with land ownership related to the property, this does not have a direct bearing on consideration of the planning merits of the proposal.

11. Therefore, for the above reasons, I conclude that the proposal would have an unacceptably harmful effect on the character and appearance of the street scene and use of the adjacent public footpath. Consequently, the proposal is contrary to Policies SCLP11.1 and SCLP11.2 of the East Suffolk (Suffolk Coastal) Local Plan, as described above. While the Leiston Neighbourhood Plan is referred to by the Council, I am not aware of any specific policy conflict with this plan.

Conclusion

12. For the reasons given, it is concluded that the appeal should be dismissed and planning permission refused.

J Bell-Williamson

INSPECTOR