



Appeal Decision

Site visit made on 29 June 2023

by P N Jarratt BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 July 2023

Appeal Ref: APP/W3330/C/22/3300699

2 Ponsford Road, MINEHEAD, TA24 5DX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Robert Stevens against an enforcement notice issued by Somerset West and Taunton Council.
 - The notice, numbered ECC/EN/21/00031, was issued on 19 May 2022.
 - The breach of planning control as alleged in the notice is the construction on the land of a timber boundary fence and gate adjacent to the public highway above 1 metre in height in the position shown by a blue line on the Plan attached to the notice.
 - The requirement of the notice is to reduce the height of the fence and gate to a height not exceeding one metre.
 - The period for compliance with the requirement is three months.
 - 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.
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Decision

1. 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.

Main Issue

2. The main issue in a ground (a) appeal is the effect of the development on the character and appearance of the area.

Reasons

3. The appeal property is a rendered, semi-detached, pre-war dwelling situated on a corner plot in an area characterised by similar dwellings and boundary treatments. It is bounded by a low stone wall above which is a grey painted, vertically-boarded, timber fence and contains a pedestrian gate on the Ponsford Road boundary. A stone pillar located on the corner of the plot provides a break for the wall and fencing which on the Queens Road frontage is at a higher overall height due to the dwarf wall being higher than that on the front. The fence continues along the Queens Road frontage.
4. The allegation refers to the fence shown by a blue line on the plan attached to the notice. This extends along the Queens Road boundary to a point level with the western end of the projecting gable of the house on the north elevation of the property.
5. Within the garden close to the corner boundary is a pink and grey painted shed.

6. The appellant advises that the fencing was erected for the safety of his children and dog as the existing boundary wall of approximately 750mm high would not provide security or privacy or prevent littering. It is appreciated that the garden lacks the normal degree of privacy and security by virtue of it being a corner plot and the appellant has indicated that in the absence of a hedge, immediate privacy was required and that a fence was the only logical solution, which he states is 1650mm high.
7. The fence is highly visible in the street scene by virtue of its height and length and its visibility is accentuated by it being on two sides of the corner property. Its painted grey colour also draws attention to it. It has a negative contribution to the area which is characterised by similar dwellings with relatively small front gardens with low stone walls and established planting. The area has a cohesive and distinctive appearance with little to distract the casual observer.
8. The character and appearance of the street scene and the area is harmed as a result of the insensitive development. The National Planning Policy Framework (the Framework) places great importance on securing high standards of design in the built environment, which this development fails to achieve. This is also reflected in Policy NH13 West Somerset Local Plan.
9. I note that a District Wide Design Guide was adopted in December 2021 as supplementary planning guidance which highlights the importance of the character of site boundaries in terms of materials and height, sensitivity to privacy and how boundaries may be a characteristic of the area.
10. The appellant draws attention to other properties in the vicinity with fencing. However, the Council advises that the boundary fence on the dwelling at 9 Ponsford Road has been in situ since at least 2009 and that a fence to a property on the corner of Ponsford Road and King Edward Road has become lawful through the passage of time. Whilst the appellant not surprisingly refers to these other fences, their existence (and the failure of the Council to take enforcement action for whatever reason) should not be regarded as justification for a further erosion of the street scene.
11. The Council considers that privacy and security could be achieved with the planting of a hedge inside the stone boundary walls and the removal of the fence when the hedge has grown. In the event that I am minded to allow the appeal, the Council has suggested a condition to this effect with the fence being required to be removed by 29 February 2024. However the Council's suggested condition relates to a property at 33 Paganel Road and not to the property subject to this appeal.
12. I note that the appellant has not responded to the suggestion of a condition.
13. Although I could attach a condition specific to the appeal property, this would not overcome the harm to the character and appearance of the area for many years, as a hedge of a species appropriate to the area would no doubt take several years to grow sufficiently to achieve the degree of privacy and security that the appellant seeks.
14. I agree with the appellant that there are no road safety implications of the development.
15. I therefore conclude that the development causes harm to the character and appearance of the area and this is contrary to advice in the Framework, to

Policy NH13 of the West Somerset Local Plan and to the recently adopted supplementary planning guidance.

Conclusion

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

P N Jarratt

INSPECTOR

