



Appeal Decision

Site visit made on 6 April 2024

by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI
an Inspector appointed by the Secretary of State

Decision date: 26 April 2024

Appeal Ref: APP/J3720/D/23/3335086

1 Templar Close, Lower Tysoe, Warwickshire CV35 0GT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Estee Design Ltd against the decision of Stratford-on-Avon District Council.
 - The application Ref: 23/02281/FUL dated 24 August 2023 was refused by notice dated 9 October 2023.
 - The development sought to be approved is Erection of decking and fencing.
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Decision

1. The appeal is allowed and planning permission is granted for the Erection of decking and fencing at 1 Templar Close Lower Tysoe Warwickshire CV35 0GT in accordance with the terms of the application Ref: 23/02281/FUL dated 24 August 2023 and the drawing submitted with it subject to the following condition:
 - 1) Within six months of the date of this permission, all visual treatments attached to the fencing hereby approved shall be removed, and thereafter, except with the written permission of The Local Planning Authority, the fencing shall be retained in its original unpainted condition for the lifetime of the development.

Main Issue

2. The main issue is the effect of the works upon the character and appearance of the area.

Reasons

3. The appellant seeks planning permission for works (the Works) which have already been carried out, namely the construction of a fence and decking between two adjacent, recently built detached houses in the village of Lower Tysoe which is a small rural settlement. The appeal site, 1 Templar Close, (No.1) falls within a small, recently completed development of detached two-storey houses in which regard some care has been taken to use materials and details which are appropriate to local characteristics and the rural location, including the installation of low dry-stone walling to the front boundaries of the development¹, together with hedging to the intervening boundaries in the frontage areas. Although the Works may be visible from the road frontage,

¹ This is unaffected by the works.

they fall within a gap between two dwellings rather than in front of the principal elevations.

4. The Council express concern as to the 'urbanising effect' of the use of close-boarded fencing and to the Tysoe Neighbourhood Development Plan (TNDP) along with other parts of the development plan. Policy CS5 of the Stratford-on-Avon Core Strategy addresses development principles. However, it is not clear to what extent, if any, the Works conflict with the TNDP. Appendix 2 thereto ('Village Design Statement') provides some brief *'design guidelines (which) should be followed wherever possible unless there are site-specific reasons not to'* including *'New developments should incorporate traditional dry stone walling and or native hedging to individual plot boundaries, specially those with road frontage'*. The development does incorporate such walling in the most prominent location whilst the TNDP appears to lack specific reference to boarded fencing.
5. The District Design Guide² states that *'close board or other solid fencing should generally be restricted to side and back boundaries shared with other built up plots'*, which would appear to be a fair description of the location of the Works which are at the 'side'. Other policies referred to by the Council will have been addressed in the Council's determination of the original development proposals which have only recently been completed. Further, in granting permission for the development it is material that rights granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) to erect such fencing and gates were not withdrawn by condition. I also note that the appellant points to a high boarded fence and gate at the side of the northernmost dwelling in the development³ of which the appeal site forms part.
6. The appellant refers to the provisions of the GPDO in his representations as to the retention of what has been erected. Although this is an appeal under Section 78 of the Town and Country Planning Act 1990 (and not Section 195 thereof) it is nevertheless appropriate to have regard to the likelihood of development similar to that here appealed being carried out within rights granted by the GPDO. It is not before me to determine whether the Works would be lawful according to those provisions but my observations direct that, allowing for the general level of ground between the appeal site and its southern neighbour, (notwithstanding the effect on those levels of the intervening ditch) an enclosure very similar to that found on site could likely be erected within Class A of part 2 (minor operations) of Schedule 2 of the GPDO with similar visual effects to those complained of.
7. The Works also include timber decking which extends from the existing paving at the side/rear of No.1 bridging the drainage ditch which passes between the adjacent houses. The decking, however, is at a similar level to the existing adjacent paved areas on both properties and would appear to be a hard surface within the definition of that which is permitted by Class F of Part 1 of the GPDO.
8. Consequently, I find little conflict with the relevant policies of the development Plan. Even if there were such conflict, the likelihood of Works very similar to (if

² At 7.4.6

³ Referred to as Plot 3

not indistinguishable from) those which are the subject of this appeal falling within planning permission granted by order⁴ supports a conclusion that the appeal should be allowed.

Other Matters

9. It was apparent in my site visit that the appellant had sought to alter the appearance of the fencing, no doubt in response to complaints which brought about the refused planning application. To my mind the addition of artificial 'greenery' has a contrary 'urbanising' impact and draws attention to what would otherwise be a normal and acceptable feature of a residential curtilage in this rural location. For that reason, although a grant of permission for existing development would not require timing or plans conditions, a condition is necessary to remove these applied elements and ensure the appearance of the fencing does not become obtrusive.
10. A number of objectors to this application express concern as to flood risk and impact upon biodiversity and habitat, however these are not substantiated and no objections are made by the Council. Others refer to conditions attached to the consent for the original development (21/01762/VARY), however that would appear to be an 'implementation' condition and no breach of condition notice or other enforcement action has been brought to my attention nor is such before me to consider.
11. Consequently, for the reasons given and taking into account all matters raised, the appeal succeeds subject to the identified single condition.

Andrew Boughton

INSPECTOR

⁴ The GPDO