



Appeal Decision

Site visit made on 13 August 2024

by Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2024

Appeal Ref: APP/U2615/D/23/3333516

2 Mawkin Green, Bradwell, Great Yarmouth, NR31 8TR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mrs Geraldine Roberts against the decision of Great Yarmouth Borough Council.
 - The application Ref 06/23/0431/HH was approved on 28 September 2023 and planning permission was granted subject to conditions.
 - The development permitted is for retention of existing trellis erected on top of 2m high fence (total height 2.7 m) along southern boundary of rear garden (retrospective).
 - The condition in dispute is No.1 which states that: "This permission expires on 27th September 2026 (being 3 years from the date of this permission) and unless on or before this date application has been made for an extension to the period of permission and such application is approved by the Local Planning Authority the trellis and supports, the subject of this permission, shall be removed from the site".
 - The reason given for the condition is: "In order to retain control over the development in the interests of the residential amenities of the occupiers of nearby properties, in accordance with adopted Policies CS09 of the Great Yarmouth Core Strategy (2015) and A1 of the Great Yarmouth Local Plan Part 2 (2021)".
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Decision

1. The appeal is allowed and the planning permission Ref 06/23/0431/HH for retention of existing trellis erected on top of 2m high fence (total height 2.7m) along southern boundary of rear garden at 2 Mawkin Green, Bradwell, Great Yarmouth, NR31 8TR granted on 28 September 2023 by Great Yarmouth Borough Council is varied by deleting condition 1, subject to the following condition.
 - 1) No further or additional trellis(s) or other screens shall be added above the existing boundary fence without first gaining the express written permission of the Local Planning Authority.

Main Issue

2. The main issue in this case is whether it is necessary to limit the period of the permission to 3 years in the interests of the residential amenities of the occupiers of nearby properties.

Reasons

The appeal site and its neighbours are in a new build residential estate which consists of dwellings of several types, all with back-to-back gardens. There are pitched roof garages in many of the dwelling's rear gardens, including those of Nos.1, 3 and 5 Ollands Road, although these do not reach the rear fence. Numbers 3 and 5 Ollands Road appear to have pergola structures just the other side of the boundary of the appellant's garden, that reach higher than the existing fences in the estate.

3. The appeal site is a detached bungalow located at the start of a cul-de-sac, Mawkin Green, with a front and rear garden: Mawkin Green is accessed via Ollands Road. The neighbouring dwellings to the west and east are both detached bungalows. The dwellings to the south rear boundary of the site consists of two semi-detached and two detached houses that front onto Ollands Road. The existing trellis is along the southern boundary of the appellant's rear garden which is shared with dwellings Nos.1 and 3 Ollands Road and part of the garden of No.5.
4. The addition of the trellis creates a 2.7m high fence which the appellant states is 2.4m above ground level on the other side because of higher ground level in those gardens. The normal height of fencing on the estate is 1.8 to 2m timber board fencing. It is unusual to see fences that reach above this height on the estate but it's not unusual to see structures at this height or above. For example, the garages with pitched roofs are found in almost all the rear gardens of houses in Ollands Road.
5. The appellant explains that the trellis was erected to avoid being overlooked from a children's slide that was erected immediately on the other side of her fence. The trellis does not prevent overlooking entirely, but does provide an improved sense of privacy. The trellis is soft in appearance, and is reasonably transparent. This planning permission was granted by the council on the basis that it is not sufficiently harmful to the residential amenities of the occupiers of nearby properties, and I consider that it does not substantially affect the amenities of those residents.
6. The appellant draws attention to paragraph 55¹ of the National Planning Policy Framework (NPPF), which makes clear that planning conditions should be kept to a minimum and only used where they satisfy the following tests: 1 Necessary, 2 Relevant to planning, 3 Relevant to the development permitted, 4 Enforceable, 5 Precise, and 6 Reasonable in all other respects. I consider that the condition can be regarded as meeting tests 2, 3, 4, and 5, without the need for further explanation.
7. Thus the essential consideration is whether the condition is necessary and reasonable. The reason for the imposition of the condition is set out in full in the banner heading at the top of this decision: it is to protect the residential amenities of neighbours. Since it has been found that there is no unreasonable effect on these amenities and therefore permission was granted, it follows that the condition is unnecessary, and test 1 is not met. There is no reason to suggest that the effect of the trellis will increase after 3 years. It is not necessary to go further to consider test 6.

¹ The paragraph is now numbered 56 in the December 2023 version of the NPPF.

8. I therefore conclude that the appeal should be allowed, with the removal of condition No.1. However, I consider that the second condition of the permission should be re-imposed, that no further trellis etc, shall be added to the fence, in order to protect the amenity of adjoining occupiers.

Terrence Kemmann-Lane

INSPECTOR