



Appeal Decision

Site visit made on 21 January 2025

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2025

Appeal Ref: APP/E2001/D/24/3355267

“West Garth”, 25 Westgate, Patrington, East Riding of Yorkshire, HU12 0NA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Spencer Kelly against the decision of East Riding of Yorkshire Council.
- The application reference is 24/01688/PLF.
- The development proposed is the erection of a 1.2m high fence and gates to front, a 1.2m and 1.8m high fence to side, 1.8m high fence with gate to rear and creation of new vehicular access to front.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a 1.2m high fence and gates to front, a 1.2m and 1.8m high fence to side, 1.8m high fence with gate to rear and creation of new vehicular access to front at 25 Westgate, Patrington, HU12 0NA in accordance with the terms of the application, reference 24/01688/PLF, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with drawing no 2990-001 (Revision 1) “Fence as installed” dated April 2023.
 - 2) Unless within 1 month of the date of this decision a scheme for the details for the colour and finish of the outer face of the fence hereby permitted, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority’s approval, the use of the new vehicular access shall cease and the fence shall be removed until such time as a scheme is approved and implemented.

The fence shall be maintained in accordance with the approved colour and finish details thereafter for so long as it remains in place.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Procedural Matters

2. I have omitted the words “retrospective application” from the description of development in the banner heading and my formal decision above, as they are not in fact descriptive of the development. Nevertheless, the fence and gates for which permission is sought have been erected, so I was able to see them in place during my site visit.
3. On 12 December 2024 the Government published a revised National Planning Policy Framework (“the Framework”), replacing the December 2023 version. The provisions most relevant to this appeal were not altered significantly, and as such

there is no requirement for me to seek comments on the revised Framework; I am satisfied that no party's interests have been prejudiced by my taking this approach. Where I have referred in my decision to specific paragraphs of the Framework, the numbering used is that of the December 2024 version.

Main Issues

4. The main issues are the effect of the development on the character and appearance of the Pattrington Conservation Area ("the PCA"), and on highway and public safety.

Reasons

Character and appearance

5. The appeal relates to a semi-detached dwelling, which previously had a brick boundary wall. Part of the front wall to Westgate, and the entirety of the side wall to Humber Lane, have been replaced with a timber fence; a new vehicular access has been created with a gate on the Westgate frontage. The appellant is seeking planning permission for the development which has already been carried out.
6. The appeal site is within the PCA, and I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. As heritage assets are irreplaceable, the Framework states that they should be conserved in a manner appropriate to their significance (paragraph 202). It goes on to advise that any harm or loss requires clear and convincing justification (paragraph 213) and that any harm that is less than substantial must be weighed against the public benefit of the proposal (paragraph 215).
7. The PCA was summarised by the Council's Conservation Officer as covering "the historic core of a well-preserved village with medieval origins", focused on "the market place and the Church of St. Patrick, a stunning architectural landmark often referred to as 'the Queen of Holderness'". I consider that these are the principal elements which define the character and significance of the PCA, as far as this appeal is concerned.
8. The appeal site is on Westgate (the A1033 road) alongside its broad junction with Humber Lane, a short distance west of the village centre and the Market Place. Within the PCA, the predominant building material is brick. I agree with the Council's observations that "the principal boundaries of plots are often defined by the buildings themselves [which sit] on the back edge of the pavement, and that, where this is not the case, boundaries tend to be hedges and/or low brick walls". However I also saw that, while they are not commonplace, there are boundary fences of various styles to street frontages within the PCA, including at No 38 Westgate opposite Humber Lane and very close to the appeal site. I note also that the Council's 2006 PCA Appraisal does not identify boundary fences, as opposed to brick walls, as an inherently harmful or inappropriate feature of the conservation area.
9. The appeal property is more modern than most buildings within the PCA; it does not sit at the back of the pavement, but has a shallow front garden or forecourt, and a broader side/rear garden. Because of a bend in the A1033m, it is especially visible on entering the village (and the PCA) from the north-west and therefore

reasonably prominent in the streetscene. The fence which has been erected is of a close-boarded style, and lower towards the front of the property, stepping up to its full height only around the rear garden which, because of the appeal property being on a corner plot, adjoins Humber Lane. It is muted in colour (and likely to become more so as it ages and weathers) and so is not visually jarring, nor is it so tall as to be a dominant or otherwise intrusive feature in the streetscene.

10. Because of the prominent location of the appeal site, I agree with the Council that the finish used for the fence is an important consideration – it seems unlikely, for example, that it would be appropriate for it to be painted in bright or gaudy colours. This was not specified in the application, but is a matter which can be addressed by the use of a condition.
11. Subject to this condition, to which I return below, I conclude that the fence has not caused significant harm to the character or appearance of the area; the character and appearance of the PCA are preserved. The development does not therefore conflict with Policies ENV1 and ENV3 of the 2016 East Riding Local Plan Strategy Document (“the ERLP SD”) which together, and among other things, seek to ensure that development is appropriate for the wider context and the character of the surrounding area, and that the significance, character, appearance and context (including conservation areas) is conserved.
12. The proposal also complies with the provisions of the Framework which seek to conserve and enhance the historic environment. As I do not find that the proposal has caused harm to or loss of heritage assets, it is not necessary to apply the public benefit test set out in Paragraph 215 of the Framework.

Highway safety

13. The development has led to the creation of a new vehicular access to the appeal property. Westgate itself is an ‘A’ road, described by the Council as a “3A main distributor” road, and the main road into the village from the direction of Hull and beyond. There is also a secondary access road (an “unclassified local access road”) on the south side of Westgate in front of the appeal property running eastwards towards the Market Place, and it is this which a vehicle leaving the appeal property first enters.
14. The Council’s concern about the access relates specifically to visibility for vehicles leaving the site; it considers that it does not comply with guidance in Manual for Streets 2 (“MfS2”) because of the 1.2m high fences. I note that the Council’s Highway Development Management team commented that the fence would be acceptable if it were reduced in height to 1.05m, presumably on the basis that this the lower end of the driver eye height range set out in MfS2¹.
15. The appeal property is the last one at the western end of the secondary access road. Any driver leaving the appeal property would have to either immediately turn sharp right, to head east along the secondary access road itself, or bear left to enter – in a very short distance, no more than the 6.7m width of the secondary access road – the junction of Humber Lane and Westgate (as well as Ings Lane, which also joins the junction from the west). In either event a vehicle leaving the appeal property would be likely to be – and certainly should be – moving at a very low speed. The driveway created at the side of the appeal property is not deep,

¹ Section 10.2 – Visibility Requirements.

and it also seems likely that any pedestrian moving along the footway on Westgate or Humber Lane would have the time to become aware of any vehicle leaving the property.

16. I also note that, although the secondary access road in front of and close to the appeal property appeared to be well-used for car parking at the time of my visit, at the time the Council was consulting on the planning application, there had been no reports of personal injury collisions located close to the new access road in the most recent five year period for which figures were available. Taking all these points together, I am satisfied based on everything I have read and seen that the fence as installed does not create a significant hazard to pedestrians or other road users.
17. I conclude that the development has not caused unacceptable harm to highway or public safety. It therefore complies with Policies ENV1 and EC4 of the ERLP SD which together, and among other things, seek to ensure that development promotes safe access, movement and use.

Other Matters

18. The appellant's statement referred to "unreasonable requirements" and "bias demands" [sic] placed upon them by the Council or its planning officer. No substantive evidence to support these assertions was put before me, and they have had no bearing on my consideration of the planning merits of the development in this appeal.

Conditions

19. I have imposed a condition defining the approved plan (1), for certainty.
20. For the reasons set out in paragraph 10 above, and to comply with Policies ENV1 and ENV3 of the ERLP SD, a condition which requires the submission and approval of details of the colour and finish of the fence, and its retention thereafter in accordance with approved details (2), is necessary. There is a strict timetable for compliance with this condition because permission is being granted retrospectively, and it is not possible to use a negatively-worded condition to secure the approval and implementation of those details before the development takes place. For this reason I was unable to use the precise form of words suggested by the Council, although the overall purpose and effect of the condition is the same. The one month timescale for submission of details is as suggested by the Council; the three month period for compliance following approval of the details, should any change in finish be considered necessary, is in my view more than adequate to carry out what would be a relatively minor operation.

Conclusion

21. For the reasons given above, the appeal is allowed.

M Cryan

Inspector