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## Appeal Decision

Site visit made on 11 February 2025

by **Alison Fish BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28<sup>th</sup> February 2025

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**Appeal Ref: APP/D0121/D/24/3349705**

**8 Spring Valley, Weston Super Mare, North Somerset BS22 9AS**

- 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 Edward Rea against the decision of North Somerset Council.
  - The application Ref is 24/P/0653/FUH.
  - The development proposed is described on the decision notice as 'Retrospective application for the erection of 0.98m high timber fence atop existing 1m (pavement height) rear boundary wall'.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. I have used the description as set out on the Council's decision notice as it more succinctly describes the proposal than the description given on the application form.
3. The fence the subject of this appeal has already been erected on site.

### Main Issues

4. The main issues are the effect of the appeal development on:
  - the character and appearance of the area; and
  - the living conditions of the occupiers of the appeal property with regards to security and privacy.

### Reasons

#### *Character and appearance*

5. The appeal property is located on Spring Valley, a cul-de-sac in a predominantly residential area. It is one of three properties where the rear boundary of the garden borders Spring Hill, which is at a significantly higher level. As a result, the rear garden of the property is set well down and the ridge of the appeal dwelling is approximately level with the footway on Spring Hill.
6. The boundary wall adjacent to the footway on Spring Hill measures approximately one metre high and is constructed of blockwork. I saw that where the boundary has remained unaltered behind one of the three properties, it provides users of the footway with far reaching views to the south and results in a spacious feeling to this part of Spring Hill.

7. Elsewhere on the south side of Spring Hill, boundary walls also tend to be approximately a metre high. On the north side of the road, due to the topography, boundary walls tend to be slightly higher. Although there are a mix of boundary treatments in the wider area, in the vicinity of the appeal site the predominant material used is blockwork.
8. The addition of a fence above the existing blockwork wall results in a structure which is almost two metres high for a length of approximately 21.5 metres. When viewed from Spring Hill, this is significantly at odds with prevailing height of boundary treatment on the south side of the road. It forms a large, obtrusive and incongruous feature in the street scene which is at odds with the established character. The fence presents an enclosing and dominating feature adjacent to the footway which intercepts the public views from Spring Hill and erodes the locality's open character. Staining or painting the fence would not overcome the harm I have identified.
9. For these reasons, the appeal development is harmful to the character and appearance of the area. Consequently, it conflicts with Policy CS12 of the North Somerset Council Core Strategy January 2017 (CS), Policy DM32 of the Development Management Policies Sites and Policies Plan Part 1, adopted July 2016 (DMP) and the Residential Design Guide Supplementary Planning Document April 2014 insofar as they require high quality design which is sensitive to the existing local character.

#### *Living conditions*

10. Without the fence, there would be views from the footway on Spring Hill into the rear garden and those windows on the rear elevation of the appeal property. This means that users of the footway would be able to see into the rear garden and upstairs rooms of the property if they chose to do so. Given the topography in the surrounding area, I saw a number of examples of properties being set well down from the level of the footway affording views into the property although there were few examples where this would also provide views into private gardens.
11. Instances of anti-social behaviour have been experienced by the appellant whilst living at the property. This includes rubbish and stones being thrown into the rear garden and stones being thrown at the rear windows of the property. Outdoor furniture has been taken from the garden and children have been seen walking along the top of the wall.
12. Whilst I understand the anxiety and concern that this could cause to the appellant, I have not been provided with details of the number of instances or the period over which these have occurred. I also have no evidence regarding other preventative measures which have been considered nor that the fence has been successful in preventing instances of antisocial behaviour from occurring. In addition, there is no evidence before me that the appeal scheme has achieved Secured by Design certification. Without the fence, there would be some loss of privacy in the property and garden but as this would only occur where users of the footway chose to look over the wall, this would be intermittent.
13. The fence therefore improves security at the property and the privacy of its occupiers. In this respect it complies with the requirements of Policy CS12 of the CS and Policy DM32 of the DMP insofar as they refer the creation of safe environments and safeguarding privacy. However, the absence of robust evidence

regarding the need for the fence, limits the weight I ascribe to this in the planning balance.

### **Planning Balance**

14. I have found that the appeal accords with the requirements of Policies CS12 of the CS and DM32 of the DMP in terms of improving security and privacy for the occupiers of the property. It also accords with Paragraphs 96 and 135 of the National Planning Policy Framework which seek to ensure that places are safe, with a high standard of amenity for existing users and where crime and the fear of crime do not undermine quality of life. Whilst this weighs in favour of the proposal, for the reasons set out above, I have given this moderate weight.
15. Balanced against this, is the harm I have found to the character and appearance of the area. I have given significant weight to the conflict with Policies CS12 of the CS and DM32 of the DMP in this respect. The lack of harm to highway safety is neutral in the planning balance.
16. Having had regard to all other matters raised, I conclude that the appeal development conflicts with the development plan taken as a whole
17. Dismissing the appeal would interfere with the appellant's and their family's right to the peaceful enjoyment of their possessions and respect for private and family life conveyed within the Human Rights Act 1998, specifically Article 1 of the First Protocol and Article 8 of the European Convention on Human Rights. However, those are qualified rights. Interference with them in this instance would accord with the law and be in pursuance of a legitimate and well-established planning policy aim to prevent harm to the character and appearance of the area, in the public interest.
18. Dismissal of the appeal is therefore necessary and proportionate. There will be no violation of the appellant's or their family's human rights. The protection of the public interest cannot be achieved by means that are less interfering with their rights.

### **Conclusion**

19. The development is contrary to the development plan as a whole and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal is dismissed.

*Alison Fish*

INSPECTOR