



Appeal Decision

Site visit made on 11 March 2025

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2025

Appeal Ref: APP/E2001/D/25/3358726

1 Blacksmith Place, Leven, East Riding of Yorkshire HU17 5AH

- 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 Alexander Holtby against the decision of East Riding of Yorkshire Council.
 - The application Ref is 24/02551/PLF.
 - The development proposed is erection of new boundary fence (1.8m in height) extending towards highway to replace existing boundary fence at side.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading I have used the description of the proposal from the Decision Notice and appellant's appeal form, as this describes the proposal in more succinct terms than the description contained within the application form.
3. The Council has advised that The Local Plan Update, comprising a Strategy Document Update and Allocations Document Update, is expected to be adopted at the meeting of the Full Council on 2 April 2025. In accordance with paragraph 49 of the National Planning Policy Framework (the Framework), the Council is now giving significant weight to the policies of The Local Plan Update.
4. Nevertheless, no substantive changes to the development plan policies relevant to this appeal have been brought to my attention. The East Riding Local Plan 2012-2029 Strategy Document Adopted April 2016 (the Local Plan) remains part of the development plan until such point that it is replaced, and the appeal has thus been determined on this basis.

Main Issues

5. The main issues are the effects of the proposal on i) the character and appearance of the area and ii) the living conditions of the occupiers of 23 Bluebell Drive, with particular regard to outlook.

Reasons

Character and appearance

6. The host dwelling is located within a new residential development that was still under construction at the time of my site visit. In the vicinity of the appeal site, the development is characterised by a mix of detached, semi-detached and terraced house types arranged along Bluebell Drive and intersecting cul-de-sacs.

7. The density of the development is softened by its open plan design, with plots typically featuring open driveways and / or front and side gardens interspersed with tree and shrub planting. Private rear gardens are enclosed by tall timber fencing, which in some places borders the footpath, but is set back in others.
8. The appeal site comprises a detached dwelling and its associated curtilage. The plot features a private rear garden enclosed by a tall timber fence. At the side, the boundary fence is aligned with the front elevation of the neighbouring dwelling to the rear, 23 Bluebell Drive.
9. To the front of the appeal site is an unenclosed private driveway, a small strip of soft landscaping and a turfed front garden. The open turfed area extends around the side of the property, where it widens and follows the curvature of the public footpath. This provides an open vista down Bluebell Drive. The greenery provided by the grass softens the built development lining the road and the open nature of this corner gives the junction with Blacksmith Place a sense of spaciousness. Though not a formally designated public open space, it nevertheless positively contributes to the prevailing character and appearance of the area.
10. While the proposal would be of a design, height and materials consistent with existing fencing, it would considerably extend the fence line. This would encompass most of the space to the side of the dwelling, with only a modest set back from the public footpath. The fence would significantly erode the sense of spaciousness near the junction and partially block the open vista down the street. While a planting scheme is proposed to soften its appearance, the space retained for this is limited. Given the alignment of the road, the fence would be a prominent and obtrusive feature in the street scene. This would unduly detract from the prevailing character and appearance of the area.
11. While there are examples of fences abutting or close to the footpath within the development, these typically follow building lines and so are more discrete in the street scene than the appeal proposal. None of the examples put before me or observed on site have the same surrounding context as the appeal site. This does not therefore lead me to a different conclusion on this main issue.
12. While the development would continue to benefit from broader open areas, namely the large area of public open space further to the south along Bluebell Drive, this serves a different function to incidental areas of open space that punctuate the estate and add to the general sense of openness throughout the development.
13. The proposal would thus have a harmful effect on the character and appearance of the area. It would conflict with Policy ENV1 of the Local Plan. This policy, among other provisions, seeks to ensure that all development proposals contribute to safeguarding and respecting the diverse character and appearance of the area, and supports development that achieves a high quality of design, including by having regard to the specific characteristics of the site's wider context.

Living conditions

14. 23 Bluebell Drive features a ground floor bay window in the front elevation, adjacent to the shared boundary with 1 Blacksmith Place. The existing fence line sits out of direct view of the bay, in line with the principal front elevation of No 23. The bay window thus has an open outlook, with an unrestricted view of the street.

15. The proposed fence would extend along much of the shared boundary, stopping approximately 1.9 metres short of the footpath. It would sit directly in front of the angled window in the side of the bay at No 23. This would considerably enclose the view from this window and appear overbearing due to its proximity. Except for a small window in the front door, the bay is the sole ground floor window in the front elevation of No 23. This would thus have a deleterious effect on the outlook from this dwelling, to the detriment of the living conditions of future occupiers.
16. While there are examples of fences extending forward of a neighbouring front window within the development, few are directly comparable to the relationship proposed in this appeal. Moreover, these examples appear to be original to the development. They do not demonstrate that the appeal proposal would not erode the established outlook from No 23.
17. I recognise that planning does not safeguard private views. Nevertheless, Paragraph 135 of the Framework states that decisions should ensure that developments create places with a high standard of amenity for existing and future users. The supporting text to Policy ENV1 of the Local Plan clarifies that, when assessing the impact of a proposal on the amenity of an existing property, particular attention should be given to the potential for loss of daylight and a sense of enclosure, among other considerations.
18. The proposal would have a harmful effect on the living conditions of the occupiers of 23 Bluebell Drive, with particular regard to outlook. It would conflict with Policy ENV1 of the Local Plan. This policy, among other provisions, seeks to ensure that development has regard to the amenity of existing or proposed properties.

Other Matters

19. The proposal would appear from the evidence provided to be advantageous to the appellant, including increasing privacy, security and the functionality of the outdoor space at the appeal site. However, there would be insufficient public benefits to outweigh the identified harm and development plan conflict.
20. While the proposal has been amended to address concerns raised by the Council's Highways Team, the absence of harm or development plan conflict in respect of other relevant planning matters does not indicate that the proposal is acceptable with respect to the main issues.

Conclusion

21. The development conflicts with the development plan, taken as a whole. I have found no material considerations that indicate the appeal should be determined other than in accordance with the development plan. Consequently, I conclude that the appeal is dismissed.

Ryan Cowley

INSPECTOR