
APPLICATION DETAILS

Application No:	18/0027/FUL
Location:	15 Keilder Rise Middlesbrough TS8 9HN
Proposal:	Retrospective application for the erection of fence
Applicant: Company Name:	Ms Sharon Casson
Ward:	Hemlington
Recommendation:	Approve with Conditions

SUMMARY

Retrospective planning permission is sought for the erection of a 0.8 metre high steel fence to the front and side garden of a residential dwelling.

Planning permission is required for the fence as the original planning approval for the estate in 1970 (application 86/70) removed the permitted development rights for any boundary treatments to the front of the properties.

Following the consultation process, there were six objections received from residents and no objections from the statutory consultees.

Taking into consideration the existing boundary treatments within the area, the design, materials and the height of the proposed fence is not considered to have a significant impact on the amenities of the neighbouring properties, the character and appearance of the street scene or highway safety.

The development is considered to be in accordance with the requirements of relevant policies DC1 and CS5.

The application is recommended for approval subject to standard conditions.

SITE AND SURROUNDINGS AND PROPOSED WORKS

The application site is 15 Keilder Rise a semi-detached house located within a residential estate in the Hemlington area of Middlesbrough. The property is located within a cul-de-sac of similar properties. Properties each have front and rear gardens and driveways.

Retrospective planning permission is sought for the erection of a 0.8 metre high steel fence to the front and side garden area. The fence design consists of horizontal black steel bars. The section of fence along the side of the front garden projects 7.8 metres from the front of the applicant's property to the pavement and the front section of fence is 4.1 metres in length, running parallel to the pavement.

The original planning consent approved in 1970 (86/70) for 167 dwellings removed the permitted development rights for any boundary treatment to the front of the properties and therefore planning permission is required for the fence. The reason stated on the decision for the removal of the permitted development rights was '

.... to control the overall details and the pleasant appearance of the proposed open plan development is dependent on the absence of front boundary fences and walls and in the interest of the amenities of the area generally'.

Planning permission is required for the fence as the estate is an open plan estate.

PLANNING HISTORY

(86/70) Residential development (Phase 1) 167 dwellings and private garages at Hemlington, approved with conditions.

PLANNING POLICY

In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities must determine applications for planning permission in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. Section 143 of the Localism Act requires the Local Planning Authority to take local finance considerations into account. Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires Local Planning Authorities, in dealing with an application for planning permission, to have regard to:

- a) The provisions of the development plan, so far as material to the application*
- b) Any local finance considerations, so far as material to the application and*
- c) Any other material considerations.*

The following documents together comprise the Development Plan for Middlesbrough;

Middlesbrough Local Plan;

- *Housing Local Plan (2014)*
- *Core Strategy DPD (2008, policies which have not been superseded/deleted only)*
- *Regeneration DPD (2009, policies which have not been superseded/deleted only)*
- *Tees Valley Joint Minerals and Waste Core Strategy DPD (2011)*
- *Tees Valley Joint Minerals and Waste Policies & Sites DPD (2011)*
- *Middlesbrough Local Plan (1999, Saved Policies only) and*
- *Marion West Neighbourhood Plan (2016, applicable in Marion West Ward only).*

The overarching principle of the National Planning Policy Framework (NPPF) is to support sustainable development, and that it should go ahead without delay. It defines the role of planning in achieving economically, socially and environmentally sustainable development

and recognises that each are mutually dependent. The NPPF requires local planning authorities to approach development management decisions positively, utilising twelve core planning principles, which can be summarised as follows:

- *Being plan led*
- *Enhancing and improving areas*
- *Proactively drive and support sustainable economic development to deliver homes, business, industry and infrastructure and a thriving local economy*
- *Always seek a high quality of design and good standard of amenity for existing and future occupants*
- *Take account the different roles of areas, promoting the vitality of the main urban areas whilst recognising the intrinsic character of the countryside*
- *Support the transition to a low carbon future, taking full account of flood risk, resources and renewables*
- *Contribute to conserving and enhancing the natural environment*
- *Encourage the effective use of land*
- *Promote mixed use developments*
- *Conserve heritage assets in a manner appropriate to their significance*
- *Actively manage patterns of growth making fullest use public transport, walking and cycling and focus significant development in sustainable locations and*
- *Take account of local strategies to support health, social and cultural well-being and deliver community and cultural facilities to meet local needs.*

The planning policies and key areas of guidance that are relevant to the consideration of the application are:

CS5 -Design
DC1 - General Development
UDSPD-

The detailed policy context and guidance for each policy is viewable within the relevant Local Plan documents, which can be accessed at the following web address.
<https://www.middlesbrough.gov.uk/planning-and-housing/planning/planning-policy>

CONSULTATION AND PUBLICITY RESPONSES

Following the neighbour consultation process there have been six letters of objections from 17,19,21,31,33 and 35 Keilder Rise which can be summarised as follows:-

- Reduction in the house prices
- Estate been open plan for 46 years
- Restrictive covenants of the property deeds states no front garden walls/fences
- Contrary to planning regulations
- Involved removing shrubs at No15/ No 17 without informing No 17 knowledge
- Design and size of fence not in keeping with the street scene and surrounding and more in keeping with a farm/prison.
- Height of fence serves no purpose except enclosing the applicant's car collection
- Creates parking problems and issues with emergency vehicle access
- If boundary required could be achieved by a planting/shrubs
- Creating unrest in the street
- Shed erected in the rear garden also an eye sore

The following comments have been received from the statutory consultees:-

Middlesbrough's Council Highway Engineer
No Comments

Public Responses

Number of original neighbour consultations	7
Total numbers of comments received	6
Total number of objections	6
Total number of support	0
Total number of representations	0

PLANNING CONSIDERATION AND ASSESSMENT

1. The Local Development Plan is the starting point for considering this proposal along with other material planning considerations. The proposal should therefore be assessed against Policies DC1 and CS5 which in essence, seek to ensure high quality sustainable development; ensure the amenity of nearby residents and that the character of the area and highway safety are not adversely affected by the development. Policy CS5 requires high quality design in terms of layout, form and contribution to the character and appearance of the area and consideration must be given to Middlesbrough's Urban Design SPD (adopted Jan 2013).
2. Although the application site is an 'open plan' estate, this does not automatically mean that any boundary enclosure would be inappropriate. There is a requirement to consider the relevance of the open plan character of the area, and the design and appearance of the railings and their associated impact on that character. These and other material planning matters are considered as follows;

Privacy and Amenity of the neighbouring properties

3. The railings have been erected within the applicant's front garden area with no apparent encroachment on the adjoining neighbour's property at 17 Keilder Rise. The railings are attached to the front elevation of the applicant's property and are lower than the applicant's / neighbour's bay windows. The railings are located a minimum of 0.4 metres from the neighbours window. Taking into consideration the overall height of the railings they are considered to not have any significant impact on privacy or amenity associated with the adjacent property.
4. The separation distance of the railings to the remaining neighbours within Keilder Rise and their open design are considered to prevent any significant impact on the privacy or amenity of the remaining neighbours with the cul-de-sac.

Character and Appearance

5. One of the core planning policy principles set out in the NPPF is that development should *'always seek to secure high quality design and a good standard of amenity for all existing and future occupants'* with paragraph 64 advising that 'permission should be refused for development of poor design that fails to take opportunity available for improving the character and quality of an area and the way it functions.'
6. The Council's Core Strategy Policy CS4 (c) states that development should be a 'high standard of design for all development, ensuring that it is well integrated with the immediate and wider context.' Core Strategy Policy DC1 (b) comments that 'the visual appearance and layout of the development and relationship with the surrounding area in terms of scale, design and materials will be of a high quality.'

7. With specific reference to boundary treatments in open plan estates, the Council's Urban Design Supplementary Planning Document, paragraphs 5.25 to 5.28 comment that special consideration will be given to corner plots in open plan estates and that in a particularly prominent or open location railings are the most appropriate style of boundary treatment as they allow views to be achieved through them. The guidance comments that the most appropriate option would be the least intrusive and should be in keeping with the surrounding area.
8. The original planning approval for the estate in 1970 had a condition restricting the erection of any front boundaries treatments without the prior approval of the Local Authority, to ensure the open character and appearance of the estate.
9. The application site is located towards the centre of the cul-de-sac. The properties within the street are a mixture of semi-detached and detached properties set back from the highway with driveways and gardens to the front. Within this central section of Keilder Rise there are no boundary treatments to the front or in between the semi-detached and detached properties with the street retaining the open plan character.
10. The two properties on either side of the entrance to Keilder Rise at No 7 and No 39 have extended their gardens and erected a 0.6 metre high fence and hedge along the front and side of their extended gardens which was granted planning permission in 1989 and 1991 (M/0473/89, M/0395/91 and M/0472/89 and M/0393/91. With No 39 having erected a small brick wall along the frontage of the property.
11. Planning permission was granted for the walls at No 7 and No 39 Keilder Rise subject to a condition the wall height was no more than 0.6 metres in height with details to be approved by the Local Planning Authority. It is acknowledged that both these properties are located on corner plots and the Urban Design Supplementary Guidance mentions that special consideration will be given to corner plots in terms of potential trespass. However, when viewing the application site from the end of the cul-de-sac the existing boundary fences on both these corner plots are more visible and have more of an impact on the open character of the street scene than the steel railings surrounding the application site.
12. Although there are no similar designed fences within the immediate area along the front and side of the front gardens, the views available due to the open design of the railings and their limited height results in the street remaining to have an open aspect, and therefore not having a significant detrimental impact on the open character and appearance of this section of the cul-de-sac. If the boundary treatment was a solid structure which did not allow view through then this would then be considered to have a more significant impact in altering the character and appearance of the street scene.
13. The Cul-de-Sac is set away from the main thoroughfare through the estate which reduces its importance in terms of the streetscene character and which is then further reduced by the existing boundary treatments at the entrance to the cul-de sac. Whilst the railings will be at odds with the existing appearance of frontages within Keilder Rise, it does not result in a significant or detrimental appearance and allows the garden / greenery to be viewed through it which retains the some of the benefits of having an open plan frontage.
14. Comments have been received that the design of the fence is more in-line with a farm/prison. Whilst the railings are not particularly ornate, the simple black steel design is a modern design and considered acceptable for domestic use in this instance.
15. Overall, the design, height and location of the boundary treatment having considered the existing boundary treatments in the vicinity is considered to be in character with the

existing street scene and accords with the guidance set out in paragraph 17 of the NPPF, Core Strategy CS5, DC1 and the Council's Urban Design SPD guidance.

Highway Safety

16. The location of the railings does not impact on the applicant's current driveway access or parking provision. The railings design has horizontal steel bars which allows views along the street for both vehicles and pedestrians. The Council's Highway Officer has commented that they have no highway safety objections to the proposal and given the views available along the street the proposal is not considered to have a significant impact on highway safety.
17. Objection comments have been received that the railings is causing issues in terms of parking and creating issues in terms of emergency vehicle access. The proposal fencing is located around the perimeter of the applicant's front garden area and does not impact on the current parking provision for the property or the highway access within the cul-de-sac.

Residual Matters

18. An objection comment has been received that the proposal will reduce the value of the properties within the cul-de-sac. Although this comment is noted the potential impact of a development on house prices is not a material planning consideration which can be considered as part of this planning application.
19. Objection comments have been received that the shed in the rear garden is an eye sore. The Council's Planning Enforcement officer has investigated whether planning permission was required for the summerhouse in the rear garden and confirmed the summerhouse falls within the permitted development regulations and does not require planning permission. Notwithstanding this matter, the shed to the rear does not impact on the considerations for this current proposal.
20. An objection comment has been made that the proposal involved the removal of a hedge to the front of the property and No 17 without the neighbours consent. The removal of the applicant's own hedge does not require planning permission whilst the removal of the neighbour's hedge is a civil issue between the parties.
21. Objection comments have been received that there is a legal restrictive covenant on the estate regarding boundary fences. The legal covenants are separate to the planning process and it would be the responsibility of the applicant to ensure the discharge of any legal covenants.
22. Comments have been received that the fence is causing unrest within the street and whilst these comments are noted they are not a material planning consideration which can be considered as part of the application.

RECOMMENDATIONS AND CONDITIONS

Approve with Conditions

- 1. The development hereby approved shall be in accordance with the plans and specifications received on the 1st February 2018 and shall relate to no other plans.**

Reason: To ensure a satisfactory form of development and for the avoidance of doubt.

REASON FOR APPROVAL

This application is satisfactory in that the fence accords with the principles of the National Planning Policy Framework (NPPF) and local policy requirements (policies CS5 and DC1 of the Council's Local Plan)

In particular the fence is designed so that its scale and appearance will not harm the open character and appearance of the area, and so will not have a detrimental impact on the general amenities of any neighbouring properties.

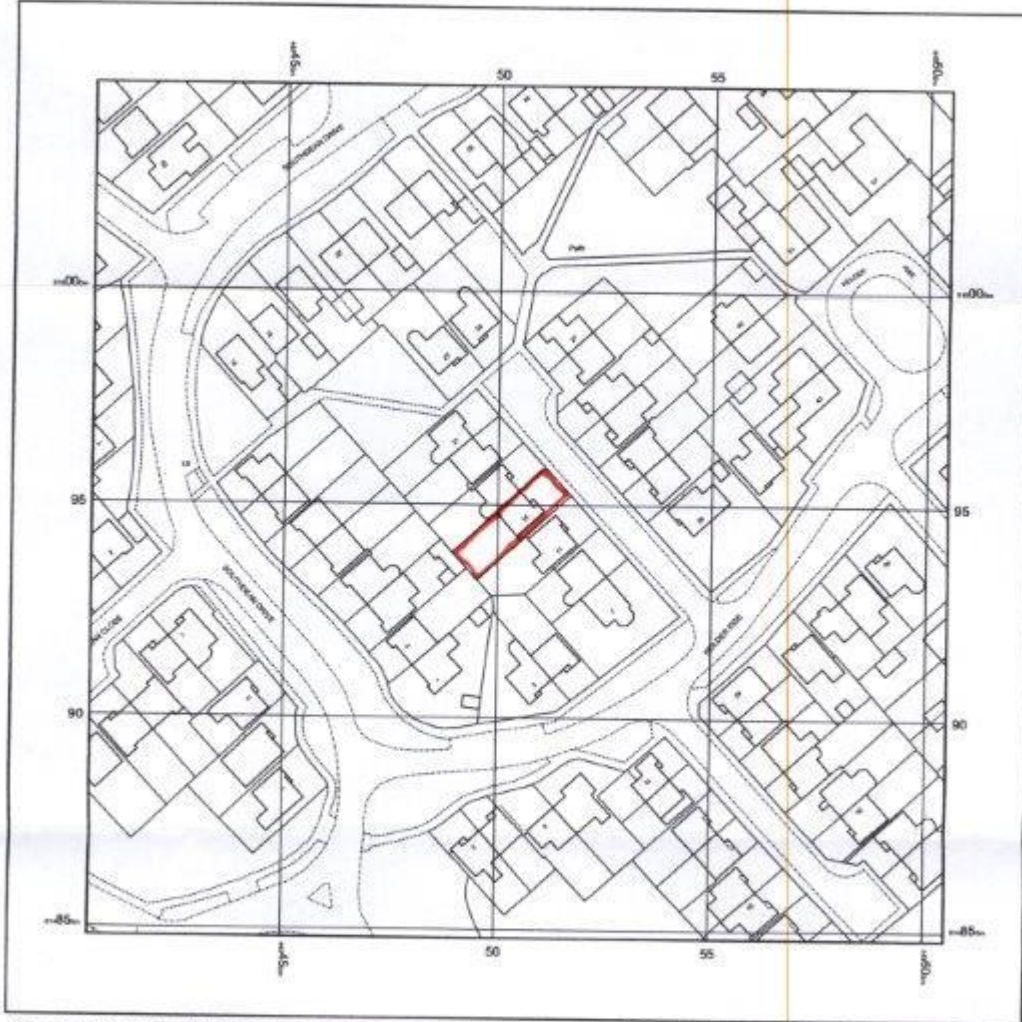
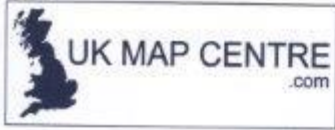
The application is therefore considered to be an acceptable form of development, fully in accordance with the relevant policy guidance and there are no material considerations which would indicate that the development should be refused.

INFORMATIVES

None

Case Officer: Debbie Moody

Committee Date: 8th June 2018



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