



Appeal Decision

Site visit made on 7 January 2020

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 13 January 2020

Appeal Ref: APP/W0734/D/19/3238818

12 Devonshire Road, Middlesbrough, Cleveland TS5 6DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr S Ahmed against the decision of Middlesbrough Borough Council.
 - The application Ref 19/0341/FUL, dated 3 June 2019, was refused by notice dated 17 July 2019.
 - The development proposed is described as 'resubmission ref 19/0053/FUL proposed erection of timber fence to front and side.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. On my site visit I noted that a fence has been erected in a similar position to that shown on the drawing which was submitted to the Council with the application¹. However, the fence on site differs to that which is the subject of this appeal in that it is taller than that illustrated on the drawing. On this basis, I am not considering this appeal retrospectively and, for the avoidance of doubt, I have proceeded to determine the appeal on the basis of the drawing submitted with the application.
3. The Council refers to the Middlesbrough Local Plan Publication Draft 2018 (LP) within its delegated report, but no policies from the LP are referred to in its reason for refusal. In accordance with Paragraph 48 of the National Planning Policy Framework (the Framework), weight may be given to policies within emerging plans. The weight given is determined by the stage of preparation of the emerging plan subject to the extent of unresolved objections and the degree of consistency of the relevant policies to the Framework. I have not been provided with any details in this regard, therefore, I can only afford limited weight to the emerging plan. In any event, Policies DC1 and CS5 of the adopted Middlesbrough Local Development Framework Core Strategy 2008 (CS) are consistent with the design requirements of the Framework and hence, I afford them significant weight as part of the determination of this appeal.

¹ Proposed timber fence to side and front walls.

Main Issue

4. The main issue is the effect of the proposed fence on the character and appearance of the area.

Reasons

5. The appeal site is a two storey, end of terrace property, which is located on a prominent corner at the junction of Devonshire Road and Windsor Road within an established residential area. An existing brick boundary wall with brick pillars that are at regular intervals along the wall, encloses the appeal site to the front and side of the property. The side boundary wall runs a considerable length along Windsor Road. I note that the drawing submitted to the Council with the application illustrating the 'existing boundary wall' shows a wrought iron fence between the pillars.
6. The proposal is for the erection of a close boarded timber fence which would sit on top of, and between the pillars of, the existing boundary wall to the front and side of the property. The existing brick wall and proposed timber fence would be approximately the same combined height as the wall and previous wrought iron fence. A single timber gate to the front and a double timber gate to the side are also proposed.
7. Within the surrounding area, the boundary treatment to the front of properties or, if they are corner plots, the front and side of properties, is largely characterised by low brick walls or low brick walls with privet hedges behind. This gives a generally open and soft landscaped character and appearance to the front and side gardens of properties within the area.
8. I acknowledge that the appellant has no back garden and that the proposed fence would provide additional security for him and his family. However, the addition of the proposed fence to the existing wall would result in an overly tall, distinctly solid and highly incongruous boundary enclosure to the property. In these respects it would appear wholly out of keeping with the prevailing characteristics of boundary treatment to properties within the area.
9. Furthermore, given the appeal site's corner location, the discordant form and materials of the proposed fence would cause it to be readily visible and unduly prominent in the street scene when viewed from Devonshire Road, Windsor Road, Brompton Road and Westmorland Road.
10. Taking the above into account, I conclude that the proposed fence would have a significantly harmful effect on the character and appearance of the area. As such, it would conflict with Policies DC1(b), CS5(c) and CS5(f) of the CS, insofar as they require development to take account of its relationship with the surrounding area, ensure that it is well integrated with the immediate and wider context and be of a quality that enhances the built environment. It would also not comply with Paragraph 127 of the Framework which, amongst other things, seeks to ensure that developments are visually attractive and sympathetic to local character.

Other Matters

11. The appellant asserts that the fence is in keeping with the area and that there are similar fences within the same postcode area. Be that as it may, the fact that apparently similar fences exist is not, in itself, a reason to allow

unacceptable development. In any event, I have determined the appeal before me on its own planning merits and found that it would cause harm as described above.

12. I note that the Council has raised no concerns about the proposed fence with regard to highway safety or the living conditions of neighbours. However, these are neutral considerations in the balance and do not outweigh the harm that I have identified.

Conclusion

13. For the reasons given above, I conclude that the appeal should be dismissed.

F Cullen

INSPECTOR