



Appeal Decision

Site visit made on 3 January 2020

by **Laura Renaudon LLM LARTPI Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 15 January 2020

Appeal Ref: APP/W0734/C/19/3233880

8 Windsor Road, Linthorpe, Middlesbrough TS5 6DR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Mahboob Khan against an enforcement notice issued by Middlesbrough Borough Council.
 - The enforcement notice was issued on 27 June 2019.
 - The breach of planning control as alleged in the notice is *Without planning permission, a wooden boundary fence has been erected on the top of the existing brick wall*. The description of the breach goes on to state that *the erection of the fence is contrary to the guidance set out in Paragraph 17 of the National Planning Policy Framework (NPPF), Core Strategy Policies DC1(b) general development, CS5(c) and (f) design*.
 - The requirements of the notice are to:
 - (i) *Remove the wooden boundary fence from the top of the existing brick wall*
 - (ii) *Return the wall to its condition prior to when the breach occurred*
 - The period for compliance with the requirements is 12 weeks from the date the notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Summary Decision

1. The appeal is dismissed and the enforcement notice upheld.

Preliminary Matters

2. The Council's reasons for issuing the notice were stated to include that the fence was contrary to paragraph 17 of the National Planning Policy Framework ('the Framework'), a paragraph concerning plan-making and the relevance of which is not explained to me, and that the works are contrary to the 'Linthorpe Conservation Area Article 4 Directive'. No copy of an Article 4 Direction has been supplied to me, and the Council have since confirmed that no such Direction applies to the appeal site. Neither paragraph 17 of the Framework nor any Article 4 Direction have figured in my determination of the appeal.

Main Issue

3. The main issue arising in the appeal is the effect of the fence on the character and appearance of the area, including having regard to its proximity to the Linthorpe Conservation Area.

Reasons

4. Windsor Road is one of a number of pleasant residential streets close to the Linthorpe Conservation Area, an example of early C20th planned residential development to the south of Middlesbrough town centre. The street and those

surrounding the appeal site consists mainly of blocks of terraced dwellings, predominantly faced in brick walls with 2-storey bay windows to the front. There are some more modern infill developments, including opposite the appeal property.

5. A common feature to the area is the presence of low boundary walls, mostly 5 or 6 brick courses high, with capping, in some cases below dense mature hedges or occasional fences or railings. The consistency of the layout of the properties set back from the highway, with their curtilages clearly defined to the front by these low boundary walls, gives the area a pleasing character and appearance.
6. The boundary of the Conservation Area itself runs to the rear of the properties on the other side of Windsor Road opposite the appeal site, and includes the properties facing onto 'The Crescent' and 'The Avenue' as it adjoins Devonshire Road. From Devonshire Road it is possible to perceive both the appeal site and part of the Conservation Area, and from Windsor Road there is occasional intervisibility with properties within the Conservation Area. However, the relationship is very limited and I do not consider that the development that has taken place has altered the character or appearance of the Conservation Area, including its setting. I have had regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area, a matter of considerable importance and weight, but do not consider that it has been adversely affected by the development.
7. The fence is however harmful to the character and appearance of the area of Windsor Road and Queens Road, the streets to which it lies adjacent. The appeal property is a large end-terraced house on the street corner, with bay windows to both frontages. The fence has been erected atop a brick wall that is markedly taller than its neighbours', consisting of around 12 brick courses with additional columns. The close-boarded fence on top of that results in an enclosure around the northern and eastern frontages of the property that is around 1.8m high for an overall length around the 2 sides of over 30 metres. Compared with the low-level walls and box hedging that gives the area its distinctive character, the fence is distinctly out of keeping.
8. Policy DC1 of the Middlesbrough Core Strategy, adopted February 2008, requires development proposals to produce an acceptable visual appearance and relationship with the surrounding area, with a high quality design. Policy CS5 also requires high standards of design and quality developments that enhance the local environment. The fence that has been erected achieves none of these requirements, and it is contrary to the development plan for the area.
9. In support of the appeal, the appellant cites other similar developments in the area. The only comparable nearby example to the fence at the appeal site is a similar development at 12 Devonshire Road, which is presently unauthorised development and so not one that I take account of as contributing to the prevailing character of the area.

Conclusion

10. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decision

11. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Laura Renaudon

INSPECTOR