



Appeal Decision

Site visit made on 3 December 2019 by Ifeanyi Chukwujekwu BSc MSc MIEMA
CEnv AssocRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2020

Appeal Ref: APP/W0734/D/19/3237945

80 Roman Road, Middlesbrough, Cleveland TS5 5QE

- 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 Mrs Rehana Gulnawaz against the decision of Middlesbrough Council.
 - The application Ref 18/0350/FUL, dated 14 May 2018, was refused by notice dated 29 July 2019.
 - The development proposed is erect a fence on boundary in addition to low brick wall.
-

Decision

1. The appeal is allowed, and planning permission is granted to erect a fence on boundary in addition to low brick wall at 80 Roman Road, Middlesbrough, Cleveland TS5 5QE in accordance with the terms of the application, Ref 18/0350/FUL, dated 14 May 2018, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Drg. Nos 18/100/10 (Location Plan), 18/100/01' (Block plan, Section and Elevation).
 - 2) The hedge along the boundary fronting onto both Green Lane and Emerson Avenue must be retained at a height of no less than 2 metres in perpetuity. Should any plants within the hedge die or become seriously diseased they shall be replaced in the first available planting season with plants of the same species which shall be allowed to grow to a height of no less than 2 metres and shall thereafter be maintained at that height as a minimum.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matter

3. It was apparent from my site visit that the development subject of the appeal has already been carried out. I have therefore determined the appeal on the basis that permission is sought for the retention of a fence on boundary in addition to low brick wall. The appeal site is located within the Linthorpe Conservation Area (the 'CA').

Main Issue

4. The issue is therefore whether the development preserves or enhances the character or appearance of the CA.

Reasons for the Recommendation

5. The appeal relates to a large two-storey detached property. It occupies a prominent position on the corner of Roman Road and Emmerson Avenue. The surrounding area is predominantly residential. The distinctive character the CA is, in part, derived from buildings that are generally set back from the street with front gardens defined by low brick walls with pillars and railings or hedges. These low brick walls create an appearance of a neat and unified street scene. There are examples where the walls have been replaced with different boundary treatments. Nonetheless, front landscape gardens defined by low brick walls are a distinctive feature of the CA.
6. The original boundary treatment for no. 80, which comprises a low dwarf wall with high mature hedge behind, is still in situ. The new approximately 2-metre-high, close boarded timber boundary fence has been constructed behind the existing mature hedge along the boundary fronting onto both Green Lane and Emerson Avenue. The appellant's argument that, by virtue of the fence being erected behind the hedge and the fence being of approximately equivalent height of the hedge, it is barely, if at all noticeable from the public road is acknowledged and this was my observation on my visit to the site. I have no reason to doubt that the retention of the hedge in order to screen the new fence could be secured by a condition.
7. The Council state that the removal of the hedge does not require planning permission, so they cannot ensure it remains and grows sufficiently to obscure the view of the fence. However, there is no indication that the hedge will be removed and no reason to suppose that will occur. The development has already been carried out. Whilst the removal of the hedge in itself is not development, a condition or limitation can be imposed for works which do not themselves constitute development. A condition requiring the hedge to be maintained at its present height and form would be enforceable, as it would be readily apparent to the Council if it were removed and a breach of planning control to have occurred. The condition could be worded to the effect that any plants within the hedge which die or become diseased, should be replaced with plants of the same species. In the event that should occur there may be a temporary period where small gaps in the screen would be apparent but any replacement would soon become established to mitigate any long term harm. With screening from the hedge, the fence is barely visible from the public realm and does not present a dominant feature in the street scene. The nature of the development does not fail to conserve or enhance the designated heritage asset.
8. Taking all the above points together, I find that given the screening of the new boundary fence provided by the existing mature hedge, the development does not have a detrimental impact on the character and appearance of the surrounding area and does not fail to preserve or enhance the character or appearance of the CA. Accordingly, there is no conflict with the aims and objectives to the National Planning Policy Framework (NPPF) and Policies DC1 and CS5 of Middlesbrough Council's Local Development Framework Core Strategy (2008) (the 'CS') which seek amongst other things to ensure that new

development preserves or enhances the character or appearance of conservation areas and other areas of special interest and character.

Conditions

The development has already been carried out, therefore the standard time limit condition does not apply. A condition is necessary to ensure that the proposed development is carried out in accordance with approved plans, in the interests of clarity. It is also necessary to impose a condition which ensures that the existing mature hedge is retained at a specific height in order to ensure the fence is screened from public view and would be visually harmful otherwise.

Conclusion and Recommendation

9. For the reasons given above and having had regard to evidence before me, I recommend that the appeal should be allowed.

Ifeanyi Chukwujekwu

APPEALS PLANNING OFFICER

Inspector's Decision

10. I have considered all the submitted evidence and the Appeal Planning Officer's report, and on that basis, I agree that the appeal should be allowed.

Chris Preston

INSPECTOR