
APPLICATION DETAILS

Application No:	21/0399/FUL
Location:	2 Mallowdale
Proposal:	Relocation of existing fence line up to 1.5m away from public footpath
Applicant:	Mr Daniel Brady
Ward:	Nunthorpe
Recommendation:	Approve with conditions

SUMMARY

Planning permission is sought to extend the private garden area out to the side of the property by erecting a 1.8m high, close boarded timber fence. The original approval for the development was subject to conditions one of which restricted permitted development rights in respect erecting fences to the front (and side in the case of a corner plot). Due to the height of the fence and its position in relation to the highway the proposal requires planning permission irrespective of the restrictive estate condition.

Two objections were received from nearby residents.

The proposal was assessed against local policy and guidance and consideration given as to whether or not the proposed fence would detract from general open character of the area and whether the proposal goes against the principles of the Nunthorpe Design Statement Supplementary Planning Document (SPD).

In accordance with the Delegated Scheme of Approval, the application is being considered at Committee as the applicant is an employee of the Council and an objection has been received.

Taking into account the site-specific circumstances, it is the officers view that the provision of a 1.5m landscape strip between the fence and the highway in combination with the existing highway verge will help to retain the open appearance of the estate. Furthermore, the wording of the Nunthorpe Design Guide refers to front gardens. The proposal is to the side of the property and as such it would be difficult to justify refusal of planning permission on the basis of it being contrary to the SPD.

The Officer recommendation is for approval subject to relevant conditions

SITE AND SURROUNDINGS AND PROPOSED WORKS

The application property is located at the junction of Mallowdale and Clevegate, in a residential area in Nunthorpe, Middlesbrough. Surrounding properties are typically two-storey detached dwellings with open frontages.

The application property is a two storey detached dwelling occupying a corner plot with open garden to front and side. There is a garage and driveway to the rear that is accessed via Clevegate. There is an existing fence to the side of the property which projects out from the front of the side elevation by approximately 1.45m and runs from the front elevation of the property to the side elevation of the garage to the rear.

The proposal subject of this application is to extend part of the fence out to the side so that more of the side garden is enclosed. Original plans submitted with the application showed the fence projecting out a total of approximately 6.15m for a distance of 9.66m before returning to meet the existing side fence. Following concerns raised by the planning officer, a revised plan was submitted, it showed the extent of the projection to the side reduced to 5.4m leaving a distance of 1.5m to the back of the adjacent footway.

PLANNING HISTORY

C157/71 Residential Development . Approved conditionally 16th Feb 1971.

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 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:

- The provisions of the Development Plan, so far as material to the application
- Any local finance considerations, so far as material to the application, and
- Any other material considerations.

Middlesbrough Local Plan

The following documents comprise the *Middlesbrough Local Plan*, which is the Development Plan for Middlesbrough:

- 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
- Marton West Neighbourhood Plan (2016, applicable in Marton West Ward only).

National Planning Policy Framework

National planning guidance, which is a material planning consideration, is largely detailed within the *National Planning Policy Framework* (NPPF). At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 11). The NPPF defines the role of planning in achieving economically, socially and environmentally sustainable development

although recognises that they are not criteria against which every application can or should be judged and highlights the need for local circumstances to be taken into account to reflect the character, needs and opportunities of each area.

For decision making, the NPPF advises that local planning authorities should approach decisions on proposed development in a positive and creative way, working pro-actively with applicants to secure developments that will improve the economic, social and environmental conditions of the area and that at every level should seek to approve applications for sustainable development (paragraph 38). The NPPF gives further overarching guidance in relation to:

- The delivery of housing,
- Supporting economic growth,
- Ensuring the vitality of town centres,
- Promoting healthy and safe communities,
- Promoting sustainable transport,
- Supporting the expansion of electronic communications networks,
- Making effective use of land,
- Achieving well designed buildings and places,
- Protecting the essential characteristics of Green Belt land
- Dealing with climate change and flooding, and supporting the transition to a low carbon future,
- Conserving and enhancing the natural and historic environment, and
- Facilitating the sustainable use of minerals.

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

DC1 - General Development
CS4 - Sustainable Development
CS5 - Design
NDS – Nunthorpe Design Guide

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

Nunthorpe Parish Council

No comments received.

Public Responses

Number of original neighbour consultations	10
Total numbers of comments received	2
Total number of objections	2
Total number of support	0
Total number of representations	0

Comments were received from the following:

A Blackburn 21 Clevegate
W Blackburn 21 Clevegate

The objections can be summarised as follows

- Proposal will block an open view contradictory to the principle of the open plan estate
- Fence will impede visibility of oncoming traffic from driveway.
- Reduced visibility will create a hazard to wheelchair users.

PLANNING CONSIDERATION AND ASSESSMENT

Policy context

1. The National Planning Policy Framework (NPPF) was most recently revised and published by the Government in February 2019, and is a material consideration. The NPPF states that, where a planning application conflicts with an up-to-date development plan, permission should not usually be granted (para. 12). In determining planning applications, due weight should be given to local planning policies in accordance with their consistency with the revised Framework, with greater weight given to those policies which are closer to those in the Framework (para 213).
2. As a starting point, the proposal should be assessed against policies set out in the Development Plan. Policies DC1, CS4 and CS5 which in essence seek to ensure high quality sustainable development, ensure the amenity of nearby residents, character of the area and highway safety are not adversely affected by the development.
3. Supplementary Planning Document (SPD) the Nunthorpe Design Statement is also relevant. It seeks to ensure high quality development that protects or enhances the special characteristics of the Nunthorpe Area. It recognises the contribution that the open appearance in the Mallowdale area makes to the special characteristics of the area. At D4 (d) it states that the design of buildings are enhanced by not creating further enclosure in areas where open plan front gardens are a design feature and add to the open aspect of the development.

Appearance

4. The proposed fence will be constructed of close boarded timber and will be 1.8m high. It will project out from the property by approximately 5.4m and run for 9.66m before returning back to the original fence line. The length and height of the fence where it runs along Clevegate has the potential to present a hard edge along the rear of the footway. It is considered however that the 1.5m set back from the highway and the intervening, semi-mature hedging will help soften its appearance in the street scene. The southern and northern elevation of the fence will be set to the rear of garden areas which will help soften their appearance when viewed from the highway.
5. Open frontages to properties in the Mallowdale and Clevegate make a strong contribution to the open character of the area. Due to its corner location, the application site is highly visible within the street scene and has open gardens to the front and side both of which contribute to the open appearance. There is also a highway verge between the footpath and the highway which breaks the expanse of tarmac to the side of the property. Comment was made that the proposed fence would be contrary to the principle of the original open plan design of the estate. Whilst it is acknowledged that the proposed fence will enclose the side garden area and reduce the open appearance to an extent, it is the Development Control view that the proposed 1.5m landscape strip to the side of the fence along with the

existing shrubs and grassed highway verge will help offset the loss of openness. There are also other examples of enclosure of side gardens in the immediate vicinity of the application site, the property directly across the road, No.1 Mallowdale, has a similar arrangement with the hedge virtually obscuring the side elevation of the fence. Similarly, No.1 Levington Wynd which occupies a corner plot adjacent to Mallowdale also has a fence and hedge adjacent to its side boundary.

6. The proposed fence will project beyond the general building line along Clevegate to the north of the site. However the building line is stepped along this part of the road where land levels rise to the north making the height of buildings rise as you look north. Given the stepped building line and difference in levels, it is the Development Control view that the 1.8m high fence when viewed from the south will be seen against a backdrop of increasingly high buildings. This and the 1.5m landscape gap is considered to reduce the visual impact of the fence so that it does not have an unduly adverse impact in the street scene.
7. At its most northern point, the proposed fence will project from the existing fence line by approximately 4.7m. When viewed from a more elevated position to the north of the site, the projecting fence will be visible. It is however the officer view that, due to its height and the intervening landscaping strip, the impact in terms of appearance and impact on the open character of the area will not be so significant as to justify refusal of planning permission.
8. The Nunthorpe Design Statement discourages enclosure of areas where open plan front gardens are a design feature and add to the open aspect of the development. The front garden of the property will be retained as open plan and, for the reasons outlined above, it is considered that the proposal will not unduly reduce the open aspect of the estate. As such the proposal is considered to be in keeping with the Nunthorpe Design Statement.
9. In view of the above it is considered that the proposed development will not have a significantly adverse impact on the character of the area in accordance with CS5 (test c) and DC1 (test b) and the Nunthorpe Design Statement.

Impact

No. 21 Clevegate

10. Views of the proposed fence from front facing ground floor windows at this property will be screened to a large extent by the integral garage which projects forwards of the front of the house. The first floor window to the dormer above the garage will have a view towards the fence but it will be offset and looking down towards it. As such any impact on amenity in terms of overbearing appearance or overshadowing will be negligible.

No. 6 Clevegate and No.1 Mallowdale

11. Windows to the front elevation of both properties will have a direct aspect towards the proposed fence but there is a intervening distance of over 21m and as such any impact on amenity will be minimal.

Other properties

12. Other nearby properties do not have a direct aspect towards the site or are more than 21m away where any impact will be minimal.
13. In light of the above, it is considered that the proposed development will not have a significant additional impact on the amenity of nearby residents and is therefore in accordance with Policy DC1 (test c) in this regard.

Highways

14. Concerns were raised regarding the impact of the fence on visibility of cars reversing out of the driveway at No. 21 Clevegate. The depth required for a visibility splay is 2.4m at a point central in the driveway from the back of the carriageway to a point 25m along the highway. The splay can be achieved virtually within the depth of the footpath, the proposed fence will be set in a further 1.5m from the back of the footpath and as such the required vehicular visibility will be achieved. In respect of pedestrian visibility, a splay of 2.4m by 2.4m is considered to afford acceptable visibility of pedestrians. This display can be achieved wholly with the site at No 21 Clevegate and within the application site with the fence in place and as such the proposal will not interfere with pedestrian visibility lines. As a result, it is considered that the proposal will not have a detrimental effect on highway safety in accordance with Policy DC1 (test d).

Other matters

15. Concerns were raised regarding the impact of the proposal on the safety wheelchair users. Given the set back of 1.5 from the adopted highway and the visibility distances that can be achieved at the site, it is considered that the proposal will not have detrimental impact on the needs of wheelchair users.

Summary

16. The proposal has been assessed against local policy and guidance. It is considered that the proposal will not have any notable detrimental impact on the character of the area, the amenity of nearby neighbours or on the safe operation of the highway. All other issues raised have been considered but do not justify refusal of planning permission.

Conclusion

17. In view of the above, the proposal is considered to be an acceptable form of development fully in accordance with National and Local policy and is therefore recommended for approval.

RECOMMENDATIONS AND CONDITIONS

Approve with Conditions

1. **Time Limit**
The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: In order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).
2. **Approved Plans**
The development hereby approved shall be carried out in complete accordance with the plans and specifications detailed below and shall relate to no other plans:
 - a) Location Plan received 3rd August 2021
 - b) Site layout plan received 29th November 2021
 - c) Site layout plan received 29th November 2021
Reason: For the avoidance of doubt and to ensure that the development is carried out as approved.
3. **Fence Details**

Notwithstanding the submitted details, the fence hereby approved shall be constructed of close boarded timber and shall not exceed a height of 1.8m.

Reason: To ensure the use of appropriate form of development in the interests of the visual amenities of the area having regard for policies DC1, CS4 and CS5 of the Local Plan and section 12 of the NPPF.

REASON FOR APPROVAL

This application is satisfactory in that the design of the proposed fence accords with the principles of the National Planning Policy Framework (NPPF) and, where appropriate, the Council has worked with the applicant in a positive and proactive way in line with paragraph 38 of the NPPF (2018). In addition, the proposed fence accords with the local policy requirements (Policies CS5 & DC1 of the Council's Local Development Framework).

Case Officer: Maria Froggatt

Committee Date: 17th December 2021



Scale: 1:200 2 Mallowdale Proposed Site plan

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