
Appeal Decision

Site visit made on 20 May 2016

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 May 2016

Appeal Ref: APP/T1410/D/16/3145286

24 Sevenoaks Road, Langney, Eastbourne BN23 7LZ

- 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 Stephen Foord against the decision of Eastbourne Borough Council.
 - The application, Ref. PC/151142, dated 9 October 2015, was refused by notice dated 9 December 2015.
 - The development proposed is to erect a fence around the boundary of the property: 4 x 6ft close board; 1 x 6ft gate; 1 x 5ft close board; 9 x 4ft post & rail.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The fencing has already been erected and the application is therefore for retrospective permission.

Main Issue

3. The main issue is the effect of the fencing on the character and appearance of the area.

Reasons

4. I saw on my visit that with its location on the corner of Sevenoaks Road and Reynolds Road and opposite a large area of open space the appeal property is in a prominent position.
 5. The pattern of development in this area is one of relatively high density and this is achieved by the inclusion of a large number of terraced houses with compact rear gardens. The appeal property is the end house in one such terraced block located to the south east of the Sevenoaks Road / Reynolds Road junction. There is a terrace of similar houses to the north west of the junction, again in Sevenoaks Road.
 6. Despite the high density, the area has a spacious ambience. A crucial factor in this is the open plan layout, whereby the front gardens of the houses have no fences or walls enclosing them, but with shrubs and bushes within the curtilages to avoid any perception of the lawns and communal grass areas being too barren.
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7. As a corner property facing the large open space to the south, the openness to the front and side of No. 24 is particularly important. This is because it allows a seamless transition between this extensive grassed visual amenity area and the open front gardens in Reynolds Road. When combined with the open grassed area to the flank of No. 26, the end of terrace house opposite, the area would provide a pleasingly open and spacious entrance to Reynolds Road had it not been enclosed by the fencing. Moreover, if I were to allow the appeal and the fencing remained in situ the Council would have no reasonable basis for resisting an application for the enclosure of the area to the side of No. 26.
8. I have carefully considered the grounds of appeal and note the appellant's reference to, and photographs of, other forms of enclosure in the area. I have not been supplied with the details of the Council's response to these, if any, but in any event they tend to reinforce my view that as a general rule enclosures in the form of fences are harmful to the character and appearance of an area where the defining characteristic is an open plan layout. Shrubs and low hedges are more acceptable visually, but again it is an issue of ensuring that they are of a form and size that does not harm the openness of the area. This is a matter for enforcement by the Council or landowners with the benefit of any restrictive covenants.
9. I sympathise with the argument that the appellant's children cannot play safely on some of the privately owned areas of the dwelling's garden because in practical terms they are open to the public realm. However, this is a matter that needs to be considered when purchasing a property, and in order to maintain the environmental quality of the area it cannot in my view be allowed to be the deciding factor in cases such as these.
10. As regards liability for accidents, I consider it very unlikely that open grassed areas and the planting of shrubs on private land would be regarded by the courts as a hazard or as a reasonable basis for a claim for negligence against any owner or occupier. Even if I am wrong on this point it is not a matter that can be given more weight than the main issue. In respect of vehicles parking on the pavement and causing an obstruction, this is an issue that should be taken up with the Council's highway department.
11. Finally, as regards a compromise, this is not within my remit in determining the appeal and the matter should be taken up with a local councillor or Council officers.
12. Overall, I conclude that the enclosure of the garden by fencing has an unacceptably harmful effect on the character and appearance of the area. This is in conflict with Saved Policies UHT1 & UHT4 in the 2007 Addendum to the Eastbourne Borough Local Plan (2001-2011) 2003 and Policy D10A of the Eastbourne Core Strategy Local Plan 2013.
13. The appeal is therefore dismissed.

Martin Andrews

INSPECTOR