



Appeal Decision

Site visit made on 1 September 2020

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 21 September 2020

Appeal Ref: APP/H0738/D/20/3253744

14 Sunningdale Drive, Eaglescliffe TS16 9EA

- 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 C Meek against the decision of Stockton-on-Tees Borough Council.
 - The application Ref: 20/450/FUL, dated 21 February 2020, was refused by notice dated 17 April 2020.
 - The development proposed is the erection of a 2 metre high boundary fence to the side/rear.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 2 metre high boundary fence to the side/rear at 14 Sunningdale Drive, Eaglescliffe TS16 9EA in accordance with the terms of the application, Ref: 20/450/FUL, dated 21 February 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 14 Sunningdale Drive – Site Plan (Plan Reference No: TQRQM20052202326492); 14 Sunningdale Drive – Location Plan (Plan Reference No: TQRQM20052201818561); Existing Elevations (Drawing No. 1 of 5); Existing Ground Floor Plan View (Drawing No. 2 of 5); Proposed Elevations (Drawing No. 3 of 5); Proposed Ground Floor Plan View (Drawing No. 4 of 5); Existing Fence and Proposed Fence (Drawing No. 5 of 5).

Procedural Matters

2. I have used the description of the development proposed as it appears on the Council's decision notice in the banner heading and formal decision above rather than the one stated on the application form¹. This description more accurately captures the scope of the proposed development and I have determined the appeal on this basis.
3. The appellant's statement of case makes reference to the family's personal circumstances and need for the proposed development. Since there is the potential for my decision to affect a person who shares a protected

¹ Description of Proposed Works on Application Form: We propose to move the fence to the rear of the property and adjacent to the public highway, out closer toward the public highway and within the boundary of the property.

characteristic as outlined in the Public Sector Equality Duty (PSED) contained in the Equality Act 2010 (the Equality Act), I have had due regard to the three equality principles set out in Section 149 of the Equality Act. As this matter was not referred to in the Council's delegated report, in the interests of fairness, I sought the views of the Council in this regard in relation to the appeal. I am satisfied that no interested party has been prejudiced by this approach.

Main Issue

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

Reasons

5. The appeal site occupies a prominent position on the corner of Sunningdale Drive where it turns into Parkstone Place within a suburban residential estate. The appeal property, No 14 Sunningdale Drive, is a detached, two storey dwelling which is set back from the highway. It possesses an open frontage/driveway, an enclosed garden at the rear and an open area of grassed land at the side which is immediately adjacent to the pavement and highway.
6. The estate is generally characterised by an open plan form. Many dwellings possess no boundary treatment at the front and sides which, combined with the wide streets and presence of grass verges, results in a spacious feel and pleasant soft-landscaped appearance to the area. Although boundary treatments of a variety of forms and materials have been erected at the front and sides of some properties within the locale, their presence has not irrevocably changed the integral open plan nature and look of the estate as a whole.
7. The proposed development comprises the erection of a 2m, close-boarded, timber fence approximately 3.25m beyond the current building line at the side of the appeal property. A gate would allow direct and level external access into the garden from the frontage/driveway of the appeal property.
8. I recognise that the proposal would retain a sizeable part of the existing open area of grassed land between the proposed fence and the adjacent pavement. I also note the appellant's contention that the land is 'basically wasteland' and subject to littering, although I saw no evidence of this on my site visit.
9. Nevertheless, the proposed fence's position a considerable distance beyond the existing building line of the appeal property, combined with its solid form, height and extensive length, would cause it to be at odds with the open and spacious characteristics of the estate. Moreover, given the prominent location of the appeal site, these factors would also result in the fence being an unduly conspicuous feature in the street scene when viewed from adjacent public routes. In these respects, the proposed development would adversely lessen the positive qualities of the estate.
10. For these reasons, I conclude that the proposed development would have a harmful effect on the character and appearance of the area. As such, it would not comply with Policies SD3(7) and SD8 of the Stockton-on-Tees Borough Council Local Plan 2019 (SBLP) which, amongst other things, seek all domestic extensions to be in keeping with the property and the street scene; and, new development to be designed to the highest possible standard. It would also not accord with Paragraph 127 of the National Planning Policy Framework (the

Framework) insofar as it aims to ensure that developments are visually attractive, sympathetic to local character and establish or maintain a strong sense of place.

Other Matters

11. My attention has been drawn to examples of other fences within the estate which I viewed during my site visit. Of the examples which are stated to have been granted planning permission, the most recent decision dates from 2010. Therefore, although these fences may be of a similar form and setting, they were determined under a different local and national policy context and, in this respect, are not comparable to the appeal before me. Moreover, the other examples cited appear to be unauthorised and their existence does not justify the appeal proposal and further harm.
12. I note that the Council had no concerns in relation to the effect of the proposed development on the living conditions of neighbours or highway and public safety. I am also aware that no objections were received from neighbours. However, these matters weigh neutrally and do not amount to considerations in support of the appeal.

Planning Balance

13. Planning law², as noted by Paragraph 12 of the Framework, dictates that planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.
14. I have carefully considered the reasons given as to why the appellant has applied for planning permission for the proposed development and note the letters from organisations and professionals concerning the condition, long term prognosis and requirements of a member of the appellant's family.
15. I have had due regard to the PSED contained in section 149 of the Equality Act, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
16. The proposed development would assist a family member who shares a protected characteristic. These personal circumstances are a matter to which I afford significant weight in favour of the appeal.
17. I note the Council's comments that the existing garden, which is of a reasonable size and relatively flat, would appear to be sufficient and appropriate to meet the needs of the family member in the short and long term; and that the proposed development would not add a significant amount of space to the garden. However, it is evident that the proposed development would allow easier, more private, direct and level external access into the garden as well as providing more space for manoeuvrability than is currently the case. As such, and given the long term prognosis of the family member, I am satisfied that the proposed development would enhance and benefit their living conditions now and in the future.

² Section 38(6) of the Planning and Compulsory Purchase Act 2004.

18. Taking the above into account, I consider that, in this case and exceptionally, the significant weight which I attach to the personal circumstances of the appellant's family and the benefits that would accrue from the proposed development outweigh the conflict I have found with the development plan.

Conditions and Conclusion

19. In addition to the standard commencement condition, I have imposed a condition specifying the relevant plans, which include details of materials, as this provides certainty.
20. The proposal would harm the character and appearance of the area and consequently conflicts with policies within the SBLP which require development to be in keeping with the street scene and of the highest possible standard. However, having due regard to the PSED contained in section 149 of the Equality Act, I am satisfied that the personal circumstances of the appellant's family is a material consideration which indicates that the appeal ought to be allowed contrary to the development plan.
21. Therefore, for the reasons given above, I conclude that the appeal should be allowed.

F Cullen

INSPECTOR