



Appeal Decision

Site visit made on 7 May 2014

by M Seaton BSc (Hons) Dip TP MRTPI

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

Decision date: 22 May 2014

Appeal Ref: APP/Y2736/D/14/2216568

The Barn, 5 Mistle Corner, Wilton, Pickering, North Yorkshire, YO18 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 Mrs Andrea Morgan against the decision of Ryedale District Council.
 - The application Ref 13/01166/HOUSE, dated 6 October 2013, was refused by notice dated 15 January 2014.
 - The development proposed is described as "to erect a close board panel wooden fence to the inner edge of the existing stone wall to retain the existing Beech hedge and prevent it from growing over the wall. The existing wall varies in height from 0.92 metres to 1.1 metres with a substantial step which exposes the garden to both the main street through the village and the A170. The fencing takes the overall height of the wall from 1.65 metres at its lowest adjoining the dwelling, to 2.0 metres parallel to the A170. The fence itself is level and consistent with the hedging. The variation in height is caused by the uneven external ground which varies between path and grass verge. The fencing is designed to retain the hedge from growing over the wall and thereby improves the view from the village street junction to the A170. This is effectively my back garden and the combined fence and wall affords me privacy as per human rights Article 8. It also provides security for both my property and any future domestic pets."
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a timber close boarded boundary fence (maximum height 2 metres) between the existing stone wall and the hedge at The Barn, 5 Mistle Corner, Wilton, Pickering, North Yorkshire, YO18 7LZ in accordance with the terms of the application, Ref 13/01166/HOUSE, dated 6 October 2013, and the submitted drawing titled 'Site and Location Plans' (stamped 18 October 2013).

Procedural Matters

2. The appellant has provided a full and detailed description of the development on the planning application form. The Council has amended the description of the proposal during the course of the planning application, and whilst there is nothing in the submissions to indicate that this was agreed with the appellant, I am satisfied that the revision represents a more concise, yet still accurate description of the proposal. I have therefore determined the appeal on the basis of the following.

"Erection of a timber close boarded boundary fence (maximum height 2 metres) between the existing stone wall and the hedge."

3. The Council assessed the application on a retrospective basis, and given that the fence had clearly been installed at the time of my visit, I have determined the appeal on the same basis.
4. The content of the recently published national Planning Guidance has been considered, but in light of the facts in this case the national Planning Guidance does not alter my conclusions.

Main Issue

5. The main issue in this instance is the effect of the development on the character and appearance of the area.

Reasons

6. The appeal site occupies a prominent position adjacent to the road junction between High Street and the A170, with the boundary treatment comprised of a low stone wall with a close boarded fence behind.
7. The Council has highlighted that boundary treatments within the vicinity of the site are generally characterised by low stone boundary walls, which is considered to be consistent with the agricultural character of the settlement. Nevertheless, it was clear from my observations at the site visit that there are also other examples of boundary treatment, including timber fencing, in evidence nearby. I also noted that whilst the Council has expressed concern over the introduction of a feature of domestic character and appearance, the fence and low stone wall form the boundary to a domestic garden and dwelling, albeit one created by the conversion of a former agricultural building. In addition, it was also possible to observe a more domestic character to parts of the settlement in the form of residential gardens, and garden structures and buildings, some of which also occupy prominent positions along part of the A170. Whilst I accept that the use of timber fencing is not particularly common in the vicinity, in this instance the design, general appearance and colour of the fencing assists with its assimilation with the existing stone wall and surrounding stone buildings, and therefore does not result in a visually jarring or harmful feature in this location.
8. The Council has expressed concern over the potential for a precedent to be set regarding the introduction of other similar fences in relation to the converted barns. However, whilst I have considered the Council's contention, from my observations of existing boundary treatments and screening along the garden boundaries to the A170, there is no reason to suspect that similar developments will come forward. In any event, each application must be considered on its own individual merits, and a generalised concern of this nature does not justify withholding permission in this case.
9. For these reasons, the development does not have an adverse effect on the character and appearance of the area. There would not be any conflict with Policies SP16 and SP20 of the Ryedale Plan – Local Plan Strategy with Main Modifications and Additional Modifications (2013), which seek to ensure that development responds to the context provided by its surroundings, and respects the character and appearance of the surrounding area. Furthermore, the proposed development would not conflict with the objectives of the National Planning Policy Framework, which seek to protect against development of poor design.

Other Matters

10. Representations were made to the effect that Mrs Morgan's rights under Article 8 of the European Convention on Human Rights would be violated if the appeal were to be dismissed. As I have decided to allow the appeal, I do not need to deal with the question of whether the decision would result in a violation of her rights.
11. I have had regard to the support on highway safety grounds for the proposal from North Yorkshire County Council as the Highway Authority, and the support for the development from Allerston and Wilton Parish Council. However, whilst these matters would also weigh in favour of the development, these have not been decisive factors in my decision-making.

Conditions

12. The Council has not suggested the imposition of any conditions were the appeal to be allowed, and as the fence has already been installed I do not consider that a time limit condition or any others would be necessary in this instance.

Conclusion

13. For the reasons given above, the appeal should be allowed.

M Seaton

INSPECTOR