



## Appeal Decision

Site visit made on 30 September 2014

**by D Fleming BA (Hons) MRTPI**

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

**Decision date: 14 October 2014**

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**Appeal Ref: APP/Q1445/D/14/2224398**

**60 Cornwall Gardens, Brighton, BN1 6RJ**

- 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 & Ms Adams-Kirkham against the decision of Brighton & Hove City Council.
  - The application, Ref BH2014/01718, was refused by notice dated 1 August 2014.
  - The development proposed is described as "retrospective householder planning application for replacement boundary fence".
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### Decision

1. The appeal is allowed and planning permission is granted for a replacement boundary fence in accordance with the terms of application, Ref BH204/01718, dated 23 May 2014.

### Procedural Matter

2. I saw at my site visit that the replacement boundary fence had been installed. Whilst I have therefore dealt with the appeal on the basis of the submitted plans, which provide details of the fence, I have considered it as a retrospective application. However the reference in the description of the development to the proposal being a retrospective householder planning application is superfluous and I have left it out of my formal decision.

### Main issue

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

### Reasons

4. The appeal site comprises an end terraced house situated on the corner of Cornwall Gardens and Varndean Drive. It has a modest side garden which is situated below the height of the neighbouring roads. Houses in the immediate area are bounded by low brick walls and mature shrubs though corner properties in the area have a variety of boundary treatments including high brick walls and various combinations of walls and fences. These differ in height depending on where they are situated along the steeply rising Varndean Road.
5. The fence replaces a previous, older fence which was slightly lower in height. From the photographs on file it would appear that the original fence had been in position for some time and had become part of the established character and

appearance of the area. A third party seems to support this view as they commented that the difference in height was not noticeable.

6. The design of the new fence is featheredge which matches the existing fencing along the rear of the terrace that is visible from a footpath leading to a garage court at the back of No 7e Varndean Road. It has been positioned just behind a low, brick wall which marks the north and east boundaries of the site. Its current, stark appearance is as a result of it being new and unstained with any colour. This is exacerbated, to a certain extent, by its length along the Varndean Road frontage. However the length of fencing along Cornwall Gardens is shorter and the appearance of the Varndean Road frontage is softened and screened by the presence of four mature street trees in a wide grass verge. Varndean Road is flanked all along by wide grass verges and an avenue of mature trees which means in longer distance views I consider the appearance of the fence is unobtrusive.
7. In terms of the Cornwall Gardens frontage, the appearance of the previous fence was softened by two mature conifer trees within the garden. These have now been removed and the replacement fence is neater and overall a much improved boundary treatment than its worn counterpart. I consider it does not change the character and appearance of the area as it is only marginally higher than the previous fence. Furthermore I consider the appearance of the newer fence will very quickly weather and fade to a light grey as a result the appellant's offer to stain the fence will not be necessary.
8. The Council is concerned that the position of the fence, which encloses part of the front garden, dominates views from neighbouring roads. However as the position of the replacement fence does not differ from its worn counterpart I give this submission limited weight. I therefore conclude that the replacement fencing does not have an adverse effect on the character and appearance of the area. As such the development does not conflict with Policy QD14 of the Brighton & Hove Local Plan 2005 (saved policies post 2007). This seeks to ensure that alterations to existing buildings will only be granted if the proposal is well designed, sited and detailed in relation to the host property and the surrounding area. As the appeal is allowed I have not imposed the usual time limit condition as the fence has been installed.

### **Other Matter**

9. A third party is concerned that the height of the fence breaches a limit set by a covenant relating to the estate. However I can see no reason why granting planning permission would negate or supersede any private legal matters relating to the appearance of the estate. Accordingly issues relating to the covenant have not had a material bearing on my assessment of the planning issues in this appeal.

### **Conclusion**

10. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should succeed.

*D Fleming*

INSPECTOR