Mr Angus McCully

WB/10/0076/FULL
CEN
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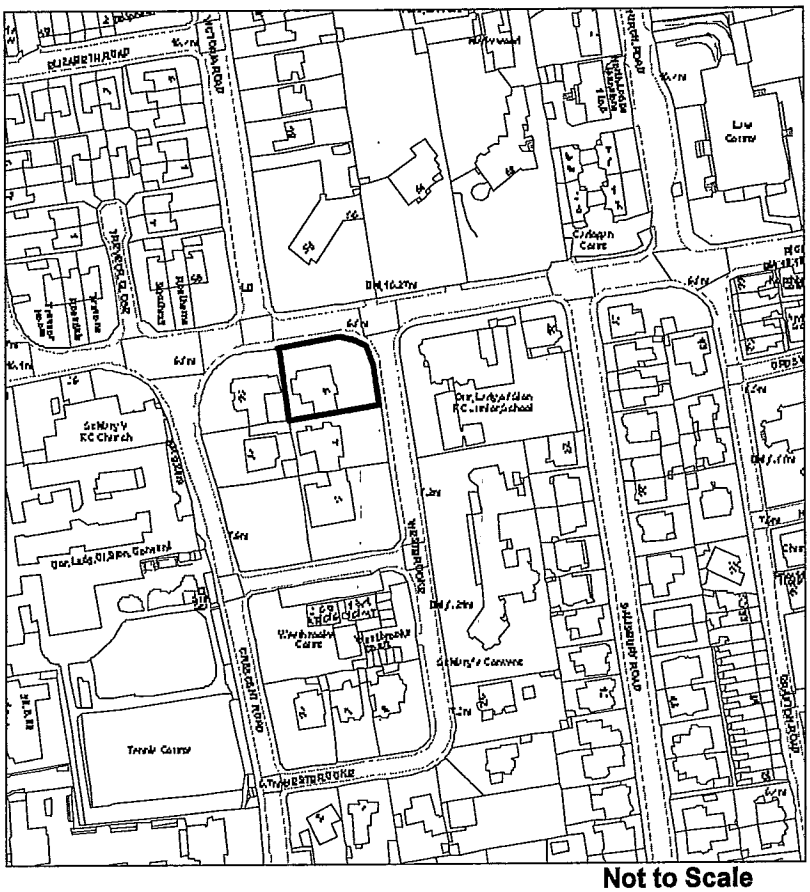
Location : 9 Westbrooke

Proposal: Retrospective application for the retention of replacement fence above existing front boundary wall.



Not to Scale

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1. THE PROPOSAL AND THE SITE

This application relates to a detached villa on the west side of Westbrooke at its junction with Richmond Road. The property is within the Richmond Road conservation area where it is identified as a positive indicator building.

This villa has a very small rear garden and relies on its front and side gardens for private amenity space. The front boundary is defined by a flint wall and fence panelling above reaching a height of 1.7 metres. This fence panelling has recently been erected and permission is sought for its retention. It replaced a similar fence.

The fencing is unstained. It has also been poorly constructed in places and there are at least two panels where there are gaps. Significant tree and shrub planting exist behind it.

2. APPLICANT'S SUPPORTING STATEMENT

'The fence panels are identical to those which existed when the house was purchased by the present owners in 2004. There are no records in existence of how long the fence has been in place prior to that. The fence is 1.7m tall.

It became necessary to replace the panels due to the incessant criminal damage caused by passing drunks making their way home from Worthing town centre.

The fence stands out more than the owners would like as the installer advised that the fence panels should season for 6-9 months before treatment. In Spring 2010 a darker protective treatment will be used that will make the fence more subtle and in keeping with other fences in the same conservation area, however the owners are happy to paint the fence any colour desired by WBC planning dept as long as it isn't pink.

A fence across the road at 58 Richmond Road and corner of Victoria Road, also in the conservation area, is how the application fence will look once stained.

The fence has already been vandalised. It is obvious the level of potential damage to the property that could take place if there was no fence. By looking through the damaged panel it is possible to appreciate the lack of privacy that would occur if no fence was in place. Typical of the Victorian Villas in the area the garden area lies predominantly to the front of the property and is used as the main garden meaning that private belongings would be easily visible to the high level of foot traffic along Richmond Road at all times of the day and night and vulnerable to theft. It would also mean that the owners would enjoy no privacy at all in their garden. In terms of security removing the fence would mean that No. 9 Westbrooke would be the only house in the area that did not have restricted visibility and access and so an obvious target.

Rubbish is regularly left against the fence such as water bottles and more usually on a Saturday morning you will find beer cans and bottles (some still containing alcohol) and once even a used condom. Without the fence these items would simply be tossed into the garden to be discovered by the 6 and 8 year old children living at the property.

The owners of the property have requested a rubbish bin to be provided along Richmond Road to serve as an alternative to the garden of 9 Westbrooke for drunks to put their beer cans into. This request was made 4 months ago and aside from an initial promise to 'look into it' Worthing Borough Council has simply ignored the request.

Conservation Area

The final point in this application regards the conservation area. The fence is in keeping with other fences in the conservation area and is a good deal more attractive than some of the concrete walls used to protect some buildings within it. The owners of 9 Westbrooke would like to point out that this fence cannot possibly be deemed to be damaging to the conservation area given the severe and unnecessary damage caused by West Sussex County Council on Crescent Road within the same conservation area. WSCC have not made the repairs promised when the owners of 9 Westbrooke complained in 2007. Further the damage caused has very recently been exacerbated by the erection of a large, ugly and unnecessary sign outside the building. Doubtless the Council will claim that it has permitted development rights allowing this damage – which is to ignore the point that the Council has an obligation to protect the conservation area regardless of whether damaging it falls within permitted development rights. As regards this application however, it seems inappropriate for Worthing Borough Council to even consider protection of the conservation area as relevant to this application when its superior council has already wilfully and severely damaged it.'

3. CONSULTATIONS

The **Highway Authority** comments as follows:

"From an inspection of the plans alone, it does not appear that this fence has a negative impact on visibility at this junction. Furthermore, the fence does not obstruct or enclose the publicly maintainable highway. No concerns."

4. REPRESENTATIONS

None.

The **Conservation Area Advisory Committee** comments as follows:

"The Committee is aware that this is a difficult problem to deal with. The fencing on top of the wall at present is unsightly and detrimental to the appearance of the conservation area. As it has not proved to be a lasting solution the committee puts forward a strong objection to the retention of the fence and asks that a more acceptable alternative is sought."

5. RELEVANT PLANNING HISTORY

None relevant to the application.

No. 58 Richmond Road

Application WB/90/0842 – Erection of fence panels to increase height of boundary walls to 1.9m. Granted 6.11.90

6. PLANNING ASSESSMENT

The main issue is the impact of the fence on the appearance of the property and the conservation area. It should be assessed against saved Local Plan Policies BE1 and H18 and South East Plan Policies BE6 and CC6. Also of relevance are the Richmond Road Conservation Area Appraisal, PPS 5 Planning for the Historic Environment and PPS1 Delivering Sustainable Development.

The new fence has replaced fence panels that were erected prior to the current applicant's purchase of the property in 2004. It is not known how long they were in place before that date. The previous fence did not have planning permission but no complaints were received. The current complaint has been received because the new fence appears stark and poorly constructed compared with the previous fence which was dark stained and weathered.

The applicant advises that the new panels have been erected at the same height as the old fence panels to a height of 1.7 metres using the old fence posts. The old fence, however, was dark stained. The new fence has not yet been stained but the applicant claims that he has been advised to let it weather for 6-9 months before doing so. His application states this will be done in Spring 2010.

There are a number of fence panels above walls in the vicinity including one opposite at No. 58 Richmond Road which is 1.9 metres high. This received planning permission in 1990. Other similar fences exist at Rostherne Richmond Road, (opposite), The Presbytery at No. 68 Gratwicke Road and No. 29 Salisbury Road. These three have not received planning permission. Only No. 29 Salisbury Road is in a Conservation Area.

It is known that this site has had fence panels above its flint boundary wall for at least the last seven years, and probably longer. The Council has never received a complaint and no action has ever been taken against it. Similarly, no action has ever been taken against the other three fences referred to above. This does not excuse the fencing but it is a material consideration.

The newly erected panels are the same height as the previous fence and will, in due course, be stained dark brown to match the old fence. The new fence has been poorly constructed with gaps under the panels and steps down in Westbrooke rather than being at the same level as the rest. The old fence did not have these gaps and was at the same height throughout. The old fence also had less subdivisions with fewer vertical bars within each panel.

The applicant suggests that the new fence has already been vandalised. It is understandable why the applicant would want to enclose his front and side

boundary on a corner property facing a busy road. It is his private garden space where his young children play. It would be insecure without further enclosure above the flint wall. He points out that late night drunks regularly deposit rubbish against and over the fence.

Ideally, soft planting would be the preferred choice to provide a high level means of enclosure behind a corner flint wall in this highly prominent position in the Conservation Area. However, the fence has been erected and has to be considered on its merits. A consideration has to be whether the new fence is materially different from the previous one and, if so, whether it is so much more harmful to the appearance of the property and to the Conservation Area that the application should be refused and enforcement action taken.

In this respect, it is considered that once stained as before and adjusted to achieve a consistent height with no gaps underneath, then the fence would appear very similar to that which was removed. On the basis that the previous fence existed for many years close to the Council offices without complaint or action, on balance, it is considered that a refusal would now be harsh. If the new fence could be made to look similar to the previous one then it would not be materially different and it could be said that it would cause no more harm and would preserve the appearance of the Conservation Area such that a refusal could not be justified and would be difficult to defend on appeal. It would be essential to impose rigid conditions and timescales to remove the gaps, regularise the height and implement the staining requirements for the fence.

Conclusion

Whilst the erection of such a fence in a Conservation Area would normally be opposed, there is evidence that a similar fence has existed at the property for a number of years without complaint or enforcement. If the current fence can be made to look very similar then it would be difficult to defend a reason for refusal on appeal.

7. RECOMMENDATION

Planning permission be granted subject to the following conditions:

1. Within 2 months of this decision the fence shall be stained dark brown.
2. Within 2 months of this decision, the panels shall be repositioned to provide a level top along the complete length of the fence with no gaps between the fence and the wall below.

8. BACKGROUND PAPERS

Observations of the Highway Authority
Observations of the Conservation Area Advisory Committee