



Appeal Decision

Site Visit made on 12 October 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2021

Appeal Ref: APP/Z4718/W/21/3278503

31 Hare Park Avenue, Hightown, Liversedge WF15 8DN

- 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 Matthew Brook against the decision of Kirklees Metropolitan Council.
 - The application Ref 2021/62/91892/E, dated 5 May 2021, was refused by notice dated 7 July 2021.
 - The development proposed is gates put between existing pillars and extended at the same level with a wall and fence on top.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description appearing in the banner heading above is an abbreviated version of the description appearing on the planning application form. It limits reference to the development for which planning permission is sought. The development, described by the Council as 'the erection of fence and gates to front', has already taken place. Accordingly, I shall deal with the proposal as one under s73A of the Act for development already carried out.

Main Issue

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

Reasons

4. The appeal site is an end of terrace, 2-storey dwelling with attached garage situated close to an internal corner on Hare Park Avenue. The road forms part of an estate of similarly designed and finished short terraces set behind open front gardens with a mix of private and open amenity spaces to the rear.
5. The development includes the construction of a front boundary wall with a metal-framed infill panel of composite boarding above. The wall extends across the frontage directly forward of the house. Additionally, a series of metal-framed gates with composite infill and an additional panel complete the front boundary as it extends across the width of the garage to meet a pre-existing wall with timber infill panels along the side boundary. The new wall and gates are estimated to stand at a maximum height of about 1.8m by the Council.
6. The predominant character of the estate is one of open frontages free from means of enclosure. Although some handrails line walkways between grassed

and landscaped areas, these are open in their design to maintain the sense of openness and spaciousness within the streetscape.

7. The substantial enclosure of the frontage by high boundary treatments prevents otherwise consistent views of the semi-private green spaces forward of the dwellings along the road. The fence and wall introduce a dominant and detracting feature incorporating panel materials alien to the locality. It contrasts starkly with the open frontages elsewhere and results in a 'dead' frontage along the back of the pavement which limits views to the garden and the lower parts of the building's principal elevation.
8. I acknowledge that the side fence and a brick pier were already in place at the site. Although the fence provides some screening it previously maintained an open frontage allowing it to actively and positively contribute to the streetscene.
9. I also recognise that examples of fences are visible to the rear of some properties nearby. However, as rear boundary treatments, these are seen and read in a different context. Some examples of frontage timber fences are also present in the locality, but these are limited in height and generally of a more open construction. In any case, these are in the minority and are not therefore a reason to find in favour of a development which I have identified causes harm to the prevailing character of the Hare Park Avenue streetscene.
10. For those reasons, I find that the development appears as an incongruous feature in its context and fails to reflect the consistent character of the open frontages on the street. It thereby conflicts with Policy LP24 of the Kirklees Local Plan Strategy and Policies [2019] as it seeks development to respect and enhance the character of the townscape.

Other Matters

11. The appellant advises that the development provides security for a young family. Age is a 'relevant protected characteristic' and I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010. This 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. I have also had regard to rights conveyed within the Human Rights Act.
12. I acknowledge that the enclosure of the front garden would provide some comfort to the appellant by preventing young children wandering or others gaining unauthorised access. It also increases the privacy of the front garden area. However, the site benefits from enclosed amenity space to the rear. Furthermore, those benefits are not necessarily dependent on the specific attributes of the development and alternatives with less impactful effects could be utilised to achieve them.
13. Accordingly, the circumstances presented by the appellant are not a strong justification for setting aside local policies with the legitimate aim of protecting the character and appearance of the local townscape in the public interest.
14. I note that damage to a driveway bollard occurred at the site as a result of a vehicle colliding with it. However, this appears to have been an isolated incident and enclosure of the frontage would not necessarily prevent equivalent

damage to the wall or gates should a similar situation arise. It is not therefore a strong reason to find in favour of a development which causes harm.

15. In support of the development, the appellant contends that the enclosures prevent dog fouling within the garden area. However, there is little before me to demonstrate that this was a significant issue at this particular site or that it could not be controlled through other, less-intrusive means.

Conclusion

16. The development harms the character and appearance of the area and conflicts with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

R Hitchcock

INSPECTOR