



Appeal Decision

Site Visit made on 13 October 2021

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2021

Appeal Ref: APP/X1355/D/21/3280674

33 Burnside, Witton Gilbert, Durham DH7 6SE

- 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 Jamie Lumley against the decision of Durham County Council.
 - The application Ref DM/21/00324/FPA, dated 28 January 2021, was refused by notice dated 7 June 2021.
 - The development is described as to '*erect 1.8m boundary fence*'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Although not expressly described as such on the original planning application for, it is clear from the development description given on the Council's decision notice that the application seeks to retain the 1.8m high boundary fence. The application form does, however, confirm that at the time of the application being made the fence had been completed.

Main Issues

3. The main issues are the effect of the development upon:
 - The character and appearance of the surrounding area; and
 - Highway and pedestrian safety.

Reasons

Character and appearance

4. The appeal relates to a timber fence around three sides of a residential garden area at No. 33. Although boundary treatments along the main road through Witton Gilbert vary, the appeal site is seen in the context of a swathe of open grassed land at the front of properties on Durham Gardens from one direction, and from a triangular area of open space opposite Louisa Terrace from the other. Within Burnside, the fence lies at the end of a short cul-de-sac which provides vehicular access to a small number of residential properties on Burnside and Brookside.
5. The fence is a dominant and incongruous feature when approaching from either direction along the main road through the village. Its stark appearance and unrelenting height, directly abutting the rear edge of the pavement on the main road, is completely at odds with the low brick walls and hedges and

shrubs which contribute to the pleasant triangular area of open space just to the south. From the north, the fence is seen for a much longer distance on approach where its alignment and height forms a strident termination of the sweeping open vista on the eastern side of the road, but in both directions the eye is naturally drawn to the fence in what is a prominent location.

6. Within Burnside itself, the impact of the fence's location at the end of a small cul-de-sac is less widely felt, but no less harmful and it forms a harsh and abrupt termination of that particular streetscene. Cumulatively with other fences at this point, it has something of a stockade feel at this point.
7. The fence is not unique at this point of Burnside, but that is not to diminish its intrusiveness or harmful appearance and instead highlights the harmful effect that it has on the character and appearance of Burnside. Moreover, the prevailing character and form of boundary treatments in much of the surrounding estate roads¹. is of low brick walls, generally low fences and shrubs and hedging. The fence, due to its height and position relative to surrounding roads and pavements, therefore fails to respond positively to the prevailing character of the surrounding area.
8. The appellant refers in passing to a lengthy list of other properties within Witton Gilbert which have fences of similar heights and in similar positions relative to the highway. However, no further details have been provided of those fences of their exact locations. It is likely that, in walking the nearby streets² during the course of my visit to the site, I observed some of the examples to which the appellant has made vague reference. Indeed, the short section of cul-de-sac at the head of which the appeal site lies demonstrates the variety of walls and fences, low and high, present within the surrounding streets.
9. In this respect, I have a degree of sympathy for the appellant's position but I have no evidence before me, from either main party, as to the status of those fences. Moreover, on the whole, where there are other properties with higher walls and fences, I am not persuaded that they share the same range and set of circumstances and context that apply to the appeal site. It was also evident that there may be other, less harmful or strident ways in which to provide both privacy and security on prominent and corner plots, and in a manner more in keeping with the prevailing character and appearance of those streets, than the appellant has explored with the appeal proposal.
10. The Council refers to its '*Residential Amenity Standards*' Supplementary Planning Document (SPD) and the recognition within it of the role of the design and detailing of boundary walls and fences on highway frontages in contributing to, or defining, the character of a residential area. Thus, the spacious open swathe of land descending towards No. 33 from the north, and the pleasant triangle of land backed by low walls and shrubs contribute to the prevailing character of the approaches to the site in both directions along the main road. So too, the mostly open frontages and low brick walls within Burnside and its neighbouring streets.
11. In contrast, the fence at the appeal site highlights very clearly the concerns expressed within the SPD regarding the boundary treatments and the

¹ Comprised of Burnside, Brookside, Cragside, Deneside, Friarside and Glebeside

² As (1), above

importance of responding positively to the prevailing pattern of development and the area's character and appearance. The fence fails to respond positively in this context and as such is contrary to the aims and provisions of Policy 29 of the County Durham Plan (CDP), particularly part (a), which seeks to secure well designed places which, where relevant, contribute positive to the area's character and townscape.

Highway and pedestrian safety

12. Although the cul-de-sac serves the rears of a number of properties, including the appeal site, there is no through-access through it for pedestrians, cyclists or motorists from Burnside to the main road. The nature and positioning of the fence so close to the rear edge of the pavement and carriageway would inevitably restrict sideways visibility when driving forward, or reversing out of, the appeal property's driveway.
13. However, there is no pedestrian or cycle connectivity from Burnside to the main road and so footfall is likely to be limited. Vehicles are likely to be manoeuvring at slow speeds and, whilst sideways visibility would be restricted, the alignment of the street with the driveway are such that there is good straight visibility between vehicles in the street and those within the appeal site driveway. Whilst not ideal, I am nevertheless not persuaded that the volume of traffic, whether on foot, bicycle or motor vehicle, would be so great or frequent that highway safety would be unduly prejudiced by either the height or alignment of the fence on the southern side of the appeal property.
14. CDP policy 21 sets out the Council's approach to delivering sustainable transport, whilst CDP policy 29 sets out the approach to achieving sustainable design. The retention of the fence would not compromise the Council's approach in these respects, having particular regard to the movement of pedestrians, cyclists and other vehicles, to highway and pedestrian safety and to the specific layout and absence of wider connectivity to surrounding streets and paths at this point of Burnside.

Other Matters

15. The effects of COVID-19 on how the Council has been able to carry out its planning duties is not a matter to which I can give any significant weight to. Nor do I have the details of a recently approved detached garage at the appeal property before me and so cannot draw comparisons between, or conclusions from, that scheme. I have, in any event, determined the appeal on its own merits and the evidence before me.

Conclusion

16. The absence of harm arising from the retention of the fence in terms of highway and pedestrian safety is only a neutral factor in the consideration of the appeal scheme and does not outweigh the harm arising to the character and appearance of the surrounding area from the appeal scheme. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

G Robbie

INSPECTOR