



Appeal Decision

Site visit made on 5 January 2022

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2022

Appeal Ref: APP/Z2315/D/21/3277120

37 Grisedale Drive, Burnley BB12 8AR

- 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 Jennifer Ormerod against the decision of Burnley Borough Council.
 - The application Ref HOU/2020/0451, dated 2 October 2020, was refused by notice dated 20 May 2021.
 - The development proposed is the 'retention of new fence along the boundary line. Will be stepped back where the cars park. Fence is 1.8 metres high. Constructed with wooden posts and close board cladding'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. As retention is not an act of development, 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 fence on the character and appearance of the property and the wider area.

Reasons

4. The site lies within a modern residential estate of similarly designed houses set about a series of cul-de-sacs and estate roads off Lakeland Way, a main spine road. On Grisedale Drive the detached and link-detached houses are set behind predominantly open fronted gardens and parking areas, with private amenity spaces provided to the rear. The substantial absence of formal high boundary fences and walls within the streetscape enhances the sense of spaciousness between the rows of buildings and creates a positive open feel to the locality.
5. 37 Grisedale Drive is a corner plot with an attached garage fronting on to a secondary cul-de-sac. The frontage has a lawned area and includes a hardstand for vehicle parking and pedestrian access. To the rear, the plot includes a garden which projects sideways beyond the gable of the garage up to a pavement and close to the turning area at the head of the main cul-de-sac arm.
6. A close board timber fence has been erected to enclose the land owned by the appellant where it lies behind the front elevation of the garage. The fence, described as being 1.8m high by the appellant, follows a gentle fall of the land

towards the plot frontage before dropping at a steeper gradient to meet the side wall of the garage. A matching pedestrian gate is incorporated within the side boundary adjacent to the pavement.

7. According to the submitted plans, the rear garden was previously enclosed along a line roughly consistent with the side elevation of the garage and extending to a point on the side boundary of 39 Grisedale Drive just proud of that building's front elevation. This was a high timber panel fence with supporting concrete posts.
8. The grassed area of land outside of the fence would have provided an open green area which contributed positively to the streetscene on the main stretch of Grisedale Drive. This would have been clearly visible on the main entrance into the cul-de-sac.
9. The loss of the contributing greenspace and enclosure by the high fencing creates a hard edge and a length of 'dead' frontage along this part of the road. Views of the fence intrude into the closing vista of Grisedale Drive and, due to its height, position and length, it is prominent on entry into and along the length of the main part of the Drive.
10. The appearance of the fence is not, in itself, incongruous as several examples of high fencing are visible in the locality. However, these examples are mainly limited to common boundaries between neighbouring properties and set behind the line of the buildings to avoid significant incursion into the open streetscene. In contrast, the fence is highly conspicuous in its setting and the loss of the contributory greenery is retrograde to the visual quality of the streetscape.
11. In support of the development, the appellant refers me to other examples of high fences visible in nearby roads, including some corner properties. Unlike the appeal development, the majority of these were set behind landscaped areas providing a green fringe and opportunities for softening by screen planting.
12. Whilst I acknowledge that some comparable examples are present nearby, there is little before me to demonstrate that these benefit from planning permission. However, these are very much in the minority and, in any case, the existence of development elsewhere does not represent an appropriate reason to find in favour of a proposal that would cause harm or lead me to alter my findings on this issue.
13. I note the fence replaced a previous timeworn fence and a proposal to colour treat the fence to seek to assimilate it and lessen its effect on the locality. However, this would not alter the hard edge created immediately to the back of the pavement and turning head. Furthermore, given the substantial absence of plantable space to the street side of the main run of the fence, opportunities for screen planting are strictly limited. In the absence of detail of how this might be achieved, a condition requiring it would not necessarily pass the test of reasonableness as it could nullify the benefit of a permission.
14. For the above reasons, whilst I find that the appearance of the fence would not be out of keeping in a location where other similar fences are present, the height and prominent position of the fence detracts from the open character of the streetscene. It thereby conflicts with Policy HS5 b) and Policy SP5 2a) and

2e) of the Burnley Local Plan [2018] as it requires development to respect its setting and context.

Other Matters

15. The appellant advises that the relocation of the fence provides a number of benefits to the family including improved privacy and enhanced security for children using the rear garden. 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.
16. I have little doubt that the enclosure of the additional land would provide some comfort to the appellant by containing and securing the garden and preventing young children wandering or others gaining unauthorised access. It also increases the privacy of the area. However, the site previously benefitted from an 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. 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.
17. I acknowledge the location of the fence enables improved access to an existing manhole previously hindered by the line of the original fence and allows easier maintenance of the enclosed land. I also note the appellant's concerns in relation to dog fouling and litter accumulation prior to the erection of the new fence. However, as issues which are also capable of being addressed through other less intrusive means, these are not matters of significant weight in favour of the development.
18. The frustrations expressed by the appellant in relation to the level of communication and engagement by the Council leading up to this appeal are also noted. However, these are not matters for this appeal which I have determined on its own planning merits.

Conclusion

19. The proposal would harm the character and appearance of the area and would conflict 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 not succeed

R Hitchcock

INSPECTOR