

Appeal Decision

Site visit made on 6 April 2022

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th April 2022

Appeal Ref. APP/W4325/D/22/3291700 317 Hoylake Road, Moreton, Wirral CH46 0RN

- 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 Alan Rigby against the decision of Wirral Metropolitan Borough Council.
 - The application ref. APP/21/01534, dated 10 July 2021, was refused by notice dated 29 November 2021.
 - The development proposed is described on the application form as *"Replacing the existing fence panels and gravel boards with a new close boarded fence with a timber capping the new fence with the capping is 2.4 m in height from the pavement some 250 mm higher than the original fence that was 2.15 m high. The garden of the property is some 670 mm higher than the pavement."*
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Decision

1. The appeal is allowed and planning permission is granted for *"Replacing the existing fence panels and gravel boards with a new close boarded fence with a timber capping the new fence with the capping is 2.4 m in height from the pavement some 250 mm higher than the original fence that was 2.15 m high. The garden of the property is some 670 mm higher than the pavement"* at 317 Hoylake Road, Moreton, Wirral CH46 0RN in accordance with the terms of the application, ref. APP/21/01534, dated 10 July 2021, and the plan drawing submitted with it and numbered AR/P/01.

Preliminary matters

2. The new close boarded fence has already been erected and it would appear that the application was submitted retrospectively based on the details provided at section 3 of the application form. I have determined the appeal on that basis and note that drawing no. AR/P/01 depicts what has been constructed on the appeal site. I have assumed that the pre-existing situation is also shown in a reasonably accurate manner on that drawing.

Main issues

3. The main issues are the impact of the development upon the character and appearance of the street scene along Susan Grove and, if adverse impacts are identified in that regard, whether the harm is outweighed by other material considerations.
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Reasons

4. The appeal property is a detached bungalow with further accommodation in the roof space. It stands in a largely residential area on a corner plot at the junction between Hoylake Road and Susan Grove. Its side elevation and rear garden run parallel to Susan Grove. The principal elevation of the bungalow at 323 Hoylake Road, on the other corner plot, faces Susan Grove directly opposite the side elevation and rear garden of no. 317.
5. The subject close boarded timber fence is stained black and separates part of the side garden and all of the rear garden at the appeal property from the footway along Susan Grove. This fence, which includes vehicular entrance gates in the same material and finish, approaches 2.4 m in height above footway level along its length. There are also 2 minor return sections of the fence running perpendicular to Susan Grove; one goes up to the side wall of the bungalow and the other along the rear boundary of the plot.
6. Even though the timber fencing is linear and slender in profile and I saw a similar but comparatively short section of fencing at the top of the same leg of Susan Grove, the appeal project has produced a long and tall solid boundary treatment in a prominent roadside location. It does not provide a positive visual contribution to the Susan Grove street scene which is, by and large, characterized by open front gardens without any form of boundary treatments. The fencing creates a rather enclosed and imposing frontage and amounts to an incongruously intrusive feature within this street scene.
7. I therefore find on the first main issue that the development has an adverse impact upon the street scene along Susan Grove. As the development does not involve a proposal for a house extension as such, I have struggled to see any direct conflict with Saved Policy HS11 of the Wirral Unitary Development Plan and the detailed guidance within the Council's Supplementary Planning Guidance *House Extensions*, both of which cover extensions to houses, rather than general design or landscaping matters. Still, as I consider that the development does not represent a visually attractive solution or add to the overall quality of the area, there has been a failure to reflect the overarching design themes of the National Planning Policy Framework (the Framework) insofar as they relate to achieving good design and well-designed places. This amounts to a material consideration that weighs against the appeal scheme.
8. I now turn to other material considerations that pull in a different direction.
9. It is apparent that the subject fencing should be viewed as a replacement structure. I cannot see any comparative analysis in the Council's delegated report between the pre-existing boundary treatment and the subject fencing. There is nothing to suggest that the pre-existing fencing was unlawful for any reason. The appellant reduced the height of the fence after the property was purchased in 1998 from an original height of 2.4 m to 2.15 m. The plans show a series of fence panels reaching 2.15 m above pavement level set above gravel boards and in between concrete posts of similar height. Whilst that fencing was lower by about 0.25 m, it was still a substantial roadside structure and the dozen or so exposed concrete posts would have made it an eye-catching feature along Susan Grove. I am not convinced that the subject fencing, which is bolted onto the fronts of the retained concrete posts so that

they are no longer exposed in views from Susan Grove, has resulted in such a markedly more discordant development in visual terms as to warrant a refusal of planning permission.

10. The physical context, levels and layout of no. 317 need to be taken into account. The front corner garden area near the road junction remains clearly visible and largely open in character. The Framework encourages the creation of places with a high standard of amenity for existing and future users; in this regard the fencing simply encloses the rear garden of the appeal property so that the occupiers have a good standard of privacy and nothing more. Given the higher level of the land inside the rear garden of no. 317 relative to the adjacent footway, the top of the fence is about 1.88 m above the central part of the lawn and about 1.72 m higher than the patio directly behind the bungalow. If the Council expects the fencing to be notably lower than 2 m high (measured from pavement level) because it is adjacent to a highway, as hinted at in the delegated report, then the occupiers would have virtually no privacy whatsoever in their rear garden, unlike the situation at nearby properties. I saw also how the fencing restricts views down into the front windows of the bungalow at 323 Hoylake Road, improving the privacy for those neighbours.
11. The improvement of security at a residential property is capable of being an important material consideration as the Framework seeks to create places that are safe, where crime and disorder and the fear of crime do not undermine the quality of life. The appellant reports that the former fence panels were continually being removed, with attempts being made to break into the garage/workshop and a works van. The appeal fence has served as a deterrent and the appellant has not noticed any attempts to jump that fence.
12. The absence of objections from local residents, ward members and the Council's Traffic and Transportation Division is a further factor that weighs in favour of the appellant.
13. Whilst I identified adverse impacts under the first main issue, I find under the second main issue that the harm is outweighed by other material considerations when looked at cumulatively and in the round. This is a decisive finding which indicates to me that planning permission ought to be granted.
14. As the development I am permitting has already been carried out in accordance with the approved plans, I see no need for the planning condition the Council suggested in its questionnaire requiring the development to be carried out in accordance with those plans. For the avoidance of doubt, I shall however refer to the relevant plan drawing in the effective part of the decision.
15. For the reasons given above and having regard to all other matters raised, I conclude that this appeal should succeed.

Andrew Dale

INSPECTOR