



Appeal Decision

Site visit made on 6 April 2022

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 April 2022

Appeal Ref: APP/R0660/D/22/3290051

**Jahanara Bhavan, Brereton Heath Lane, Brereton Heath, Cheshire
CW12 4SZ**

- 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 Anam Islam against the decision of Cheshire East Council.
 - The application Ref 21/3746C, dated 7 July 2021, was refused by notice dated 30 November 2021.
 - The development proposed is erection of a boundary wall to the front of Jahanara Bhavan, Brereton Heath Lane.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have also had regard, and in accordance with Paragraph 30 of the National Planning Policy Framework, 2021 in this appeal decision to the Brereton Neighbourhood Plan 2010 to 2030, made 29 March 2016 (NP), which the Council provided as part of their appeal submission.
3. The wall, pillars, railings and gated access have been constructed, the proposal would modify the height of this wall at the front, railings and planting would be behind the wall and not in the highway verge as shown on plan '001-Rev B'. I am therefore considering the appeal on this basis, and part retrospective.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. Brereton Heath Lane is within a predominantly residential area with a mix of dwelling types, variety of styles, densities, and materials. Most of the front boundaries to the dwellings are marked by low boundary walls with limited railings and gates and boundary walls with planting on top and behind them. There are grass verges along the highway, and in combination with the minimal boundary treatments and low heights gives the street a pleasant verdant soft-landscape and of open character.
6. The appeal site is a single storey detached property and is located in a prominent position along the street with views from either approach. The wall, which incorporates pillars, railings and a gate runs for a considerable length along the frontage, with the walls and railings wrapping around the front

garden and wider curtilage. Despite, the proposed modifications the overall scale and stark appearance of the built form of the wall would remain. As such, given the proposed height, length and prominence, of the wall combined with the pillars and railings, would form a large, obtrusive and incongruous feature in the street scene which is at odds with the prevailing open character. The addition of planting behind would do little to prevent or mitigate the negative impact it would have on the character of the local environment and the rural street scene.

7. I appreciate the appellant's frustration that there are a small number of other walls and railings within the surrounding area of the appeal site. However, the existence of these does not justify further harm.
8. In coming to my decision, I have had regard to the previous appeal decision¹ at the site, whilst recognising that the design style and height of the proposal has changed there are many parallels. My conclusion on the main issue is consistent with that decision.
9. For the reasons given above, I conclude that the proposal would cause adverse harm to the character and appearance of the area. It would be contrary to Policy SE1 of the Cheshire East Local Plan, Local Plan Strategy 2010-2030, 2017. Amongst other things, the policy requires proposals to make a positive contribution to their surroundings, including design and by protecting and enhancing the quality, distinctiveness and character of settlements.
10. The proposal would also be in conflict with Policy HOU01 and HOU10 of the NP, insofar as these policies, relate to proposals being appropriate and reflect the character of the area.

Other Matters

11. The appellant refers to the GPDO² and Class A of Part 2 of Schedule 2, that the application should have been considered on this basis. I have not been provided with any substantive evidence that any former or existing boundary treatment would meet the limitations as set out in the relevant Class of the GPDO. The 'other boundary walls' are not the subject of this appeal.
12. Moreover, it is not the role of the Inspector in dealing with a s78 appeal for planning permission to conduct an exercise as to lawful operation/development, which would normally be formally determined by a lawful certificate application, in order to ascertain whether the appellant might be able to rely on permitted development rights as a fallback. In the absence of any lawful certificate, I attach no weight to this consideration. Even if, I considered there to be a genuine fallback, it would appear from photographs that the original former boundary treatment would not be as harmful as the proposal before me.
13. I acknowledge that the wall provides privacy for the appellant, there is no impact to highway safety and there has been some support from local residents, but these matters do not outweigh the harm to the street scene.
14. Interested parties have raised additional concerns regarding the grass verges, light pollution, living conditions and CCTV at the site. The ownership issues of

¹ APP/R0660/D/21/3269074

² The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended

the grass verges are a private matter between the relevant parties and not within my jurisdiction, the site edged red omits this area. The presence of security lights or cameras is not material to the current appeal, and the Council did not raise amenity of neighbouring dwellings as a concern.

Conclusion

15. The proposed development would be contrary to the development plan taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.
16. For the reasons given above, I conclude that the appeal should be dismissed.

K A Taylor

INSPECTOR