
Appeal Decision

Site visit made on 29 June 2022

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2022

Appeal Ref: APP/D0650/D/22/3297525

14 Guernsey Road, Widnes WA8 3YH

- 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 Rachael McKeown against the decision of Halton Borough Council.
 - The application Ref 22/00038/FUL, dated 17 January 2022, was refused by notice dated 22 April 2022.
 - The development proposed is erection of a 1.2 metre high fence to the left of the front of the property between number 12 and 14.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

3. The appeal property lies within a residential area originally designed with open plan frontages comprising of landscaped gardens and driveways. Permitted development rights have been restricted to protect the appearance of the estate so that no fences or walls can be erected on land between any dwelling and the estate road without the prior written consent of the Council.
4. The appeal property's frontage is highly visible and prominent in views from the north and south on the road due to the open plan character and the staggered building line of properties on its eastern side. The proposed fence would be visually attractive and built from high quality and durable materials. However, it would introduce built form along the boundary and detract from the open plan character along this stretch of properties in the road. Despite its low height, it would be harmful to the character and appearance of the area.
5. There are some low boundary fences along the flank boundaries of nearby properties between the dwellings and the road, but they are not widespread or the predominate component of the character of the area. None of these benefit from planning permission. As such, their presence carries little weight.
6. The Highway Authority comments that no vertical feature higher than 600mm shall be placed in the pedestrian visibility splay. To do this, the height of the fence would need to be lowered for the initial section. A planning condition could secure this, but it would not overcome the harm that I have identified. As such, I conclude that the proposed development would harm the character and appearance of the area and it would not accord with Policies GR1, GR2 and GR3 of the Halton Delivery and Allocations Local Plan which jointly seek boundary

fences to be visually attractive, of a high quality and appropriate to the character and appearance of the area in which they are located.

Personal circumstances and other considerations

7. I have had due regard to the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED) under the Equality Act 2010. Disability is a relevant protected characteristic to which the PSED applies. In reaching my decision, I have kept these interests at the forefront of my mind. However, they are qualified rights and interference may be justified where in the public interest. The concept of proportionality is key.
8. I sought the parties' comments on the appellant's points relating to the need for the proposed fence. I have regard to their responses. The proposed fence would assist an occupant getting between their car and the house and vice versa. For this reason, the proposed fence would be of a benefit, and this weighs in favour of granting permission. If planning permission were to be refused, the absence of an aid would affect the occupant's quality of life and that of the family. This would represent an interference with their home and family life and with their property. However, there is insufficient evidence in respect of any alternative schemes that may provide the same assistance to the occupant. Having regard to the legitimate and well-established planning policy aims insofar as character and appearance, a refusal of permission would be proportionate and necessary. It would not unacceptably violate the family's rights under Articles 1 and 8. The protection of the public interest cannot be achieved by means that are less interfering of their rights.
9. I note the point made by an interested party about the leasehold agreement not permitting any fences or hedges at the front of their property, but I have considered the proposal on its planning merits alone and not civil matters.

Conclusion

10. The proposal would not accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this.
11. For the reasons given above I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR