



Appeal Decision

Site visit made on 27 September 2022

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2022

Appeal Ref: APP/H4315/W/22/3302305

1 Rolling Mill Lane, St. Helens WA9 3GB

- 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 Ciaran White against the decision of St Helens Metropolitan Borough Council.
 - The application Ref P/2022/0087/FUL, dated 15 February 2022, was refused by notice dated 12 April 2022.
 - The development proposed is the change of use of waste land to garden land for inclusion within the domestic curtilage and erection of a 2 metre boundary wall.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During my site visit, I saw that the boundary wall that forms part of the appeal scheme had partially been erected. As it was not complete, I have considered the proposal based on the submitted plans.
3. In July 2022, the Council adopted the St Helens Borough Local Plan up to 2037 (Local Plan). The Local Plan replaces the saved policies from the St. Helens Unitary Development Plan (UDP). Hence, saved UDP Policy GEN8 referred to in the reason for refusing planning permission is no longer part of the development plan. I have had regard to the main parties' comments on the relevant Local Plan policies in reaching my decision.

Main Issue

4. The Council is not concerned with the change of use of the land to a domestic garden but is about the proposed boundary wall. Hence, the main issue is the effect of the proposed boundary wall on the character and appearance of the area, and the living conditions of nearby residential occupiers.

Reasons

5. The appeal site lies between the detached dwelling at 1 Rolling Mill Lane, an electricity substation, and Watery Lane. The width of the site narrows towards Watery Lane. Dwellings on the north and western side of Watery Lane are relatively modern and form part of an open plan character with dwellings set back from roads. Walls or fences screen residents' gardens.
6. The edge of the residential development along Watery Lane and around its junctions with Prince Albert Road and Rolling Mill Lane are typically soft landscaped. The appeal site forms part of this, and it acts as a buffer which positively contributes to the character and appearance of the area. The siting and design of the tall, solid boundary wall proposed would erode that character

and enclose most of the land next to No 1 and Watery Lane. The proposed rendered panels would not respond to the widespread use of brick found in the area and the flank elevations of dwellings. Hence, the proposed boundary wall would not be visually attractive or sympathetic to local character. Setting the wall behind the existing low hedgerow would not mitigate the proposed harmful and discordant addition to the built environment.

7. The concrete post and timber panel fence at 1 Prince Albert Road and on the opposite side of the lane both look fairly new, and I note the Council refer to an ongoing enforcement investigation relating to No. 1. Therefore, they do not change my finding about the harm that the proposal would cause.
8. I note the planning permission was granted at 46 Watery Lane. However, this is an end terraced property and the land to the side lies in an area with a different character to that by the appeal site. It does not alter my view about the proposal. Equally, other images of boundary treatments in the area do not change my assessment of the proposal as they are either not the dominant element of the character and appearance of the area in which the appeal site lies; or on land that is physically and visually separate from the appeal site.
9. Although the Council are concerned about the boundary wall's effect on the visual amenity of neighbouring occupiers, I do not share this view given the layout of the appeal scheme and its relationship to neighbouring dwellings.
10. Whilst I consider the proposed boundary wall would be harmful, the appellant says they could erect a boundary treatment up to 2 metres high using permitted development rights. This is theoretically possible.
11. For a boundary wall up to 2 metres high to be erected under permitted development, it cannot be constructed adjacent to a highway used by vehicular traffic. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) does not define the term 'adjacent'. Nor does the Act. It has a dictionary definition of 'being near or close'. Hence, adjacent does not necessarily mean that the boundary wall must abut or touch the highway. There is also no minimum distance from the highway where a boundary wall would not be considered to be adjacent to it. Thus, it is a judgment based on the facts of the case.
12. A boundary wall erected in the same location as proposed would be a modest 1.5 metres from the back of the footway. It would run parallel to the highway. When viewed from the road, a boundary wall in this position and up to 2 metres high would be perceived to form the property's boundary with the road. It would be close to the highway, and it is clearly the appellant's intention. A low scale hedge in front of the wall would not change my assessment that this part of the boundary wall would be adjacent to the highway.
13. It may be possible to use permitted development rights to erect a boundary wall to other parts of the appeal site if they are not adjacent to the highway and accord with the other limitations of Class A. However, the appeal site would not be fully enclosed by a boundary wall in the manner proposed and the most harmful element to the character and appearance of the area would not be possible under permitted development. Therefore, the effect of the fallback position advanced would be less harmful than the appeal scheme. And so, it does not justify the proposal and the harm that it would cause.
14. Although the proposal would not cause harm to the living conditions of nearby

occupiers, I conclude that the proposed boundary wall would have a harmful effect on the character and appearance of the area, and conflict with Local Plan Policies LPA02, LPD01 and LPD04. These policies jointly seek, among other things, to secure high-quality design in all development, taking into account the Borough's townscape and the distinctive roles and settings of different areas of the Borough in the location and design of new development so to maintain or enhance the character and appearance of the local environment.

Other Matters

15. I recognise that the appellant submitted an alternative scheme to the Council comprising of infill fence panels. However, I have considered the appeal based on the boundary wall as that is the development that the appellant sought planning permission for.

Conclusion

16. 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.
17. For the reasons given above I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR