
Appeal Decision

Site visit made on 4 January 2023

by E Worthington BA (Hons) MTP MUED MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 13 January 2023

Appeal Ref: APP/Z4718/D/22/3311034

32 Gernhill Avenue, Fixby, Kirklees, Huddersfield, HD2 2HR

- 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 Reza Nafari against the decision of Kirklees Council.
 - The application Ref 2022/62/90406/W, dated 6 February 2022, was refused by notice dated 24 August 2022.
 - The development proposed is alteration to height of boundary wall.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The development has already been carried out. The extent of the 'elevated boundary wall' as indicated on the submitted plans stretches from the appeal property's gatepost on its frontage and round the corner to the west to a point just in front of the house. Nevertheless I saw at my site visit that the wall extends further northwards along the appeal property's flank boundary beyond the house and almost to the site's rear boundary. However, since that section of the wall did not form part of the scheme that was refused by the Council, I confirm that it is not before me for consideration and so does not form part of this appeal.

Main Issue

3. The main issue is the effect of the wall on the character and appearance of the surrounding area.

Reasons

4. The appeal property is a detached house in a residential area. It fronts Gernhill Avenue and its western flank boundary runs alongside an access road to a new housing development to the north which is currently under construction.
 5. The wall varies in height and is stepped in sections to reflect the change in levels across the property's frontage. It has a stone base component, but is rendered above and reaches a height of around two metres in some parts. I understand that it has replaced a low stone boundary wall.
 6. Gernhill Avenue is a wide residential street with grass verges between the footpath and the highway and some street trees. The houses are mainly well established detached properties which are set back from the road in relatively
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spacious grounds with front gardens. Whilst the front boundary treatments there vary in height, design and use of materials, the north side of the street is characterised by relatively low enclosures. These contribute to the agreeable open and spacious character of the street overall.

7. I am aware of the new housing development taking place to the north, and note the appellant's argument that this will introduce more modest dwellings on smaller plots and that as a result the wider area will become more densely developed. However, I am not persuaded that even when completed this development will have any discernible effect on the character of the street scene in Gernhill Avenue that I have described.
8. Sited close up to the back edge of the footpath on a prominent corner plot with an extensive frontage, the wall is a considerable and conspicuous structure which is highly visible in the street scene. Due to its length and height, along with its solid construction predominantly finished in render, it stands out as a dominant and obtrusive feature. It appears directly at odds with the more modest front boundary enclosures nearby and the generally open character of the street.
9. Whilst No 28 Gernhill Avenue has a relatively tall front boundary wall, it is topped with railings thereby reducing its bulk and maintaining some openness to that property's frontage. No 31 opposite the appeal property also has a high front boundary wall, but this is constructed entirely in stone and the property occupies a less prominent position at the end of Gernhill Avenue. As such, and since I am not aware of the circumstances that led to their development, I am not persuaded that these existing boundary enclosures justify the appeal scheme.
10. I accept that there are examples of the use of render nearby, notably at No 34 to the west of the appeal property. Additionally, I have had regard to the appellant's suggestion that the colour of the wall could be altered to match No 34 (and that this could be secured via a planning condition). However, this would do nothing to address the structure's overall height and bulk and so would fail to mitigate its unsatisfactory visual impact to any great extent.
11. I therefore conclude on the main issue that the wall is harmful to the character and appearance of the surrounding area. It conflicts with Policy LP24 of the Kirklees Local Plan criterion (a) of which requires proposals to promote good design by ensuring that the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape.
12. It is also contrary to Key Design Principle 1 of the House Extensions and Alterations Supplementary Planning Document which states that extensions and alterations should be in keeping with the design and local character of the area and the street scene. Since the development conflicts with these policies, and having taken all material considerations into account, it is therefore not in accordance with the development plan as a whole. Furthermore, it undermines the aims of paragraph 130 (c) of the Framework which seeks to ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.

Other Matters

13. Despite the concerns of a local resident the Council raises no objections to the wall in terms of highway safety, or with regard to the living conditions of nearby occupiers. The absence of harm in these regards counts neither for, nor against the development.
14. The wall has been erected to provide privacy and security. I appreciate that Gernhill Avenue rises up to the west such that it is at a higher level than the appeal property. I understand that the house has been burgled in the past (prior to the erection of the wall) and that the police reports indicated that it was too exposed and easily accessible by intruders. The appellant also advises that the area has seen an increase in population and change of demographic in recent years and has become busier with more traffic. I also appreciate that the development of the housing site to the north has contributed to this situation.
15. The privacy and security that the taller wall provides are benefits to the appellant which count in favour of the scheme. However, I have seen nothing to indicate that alternative less harmful measures to increase privacy and/or security at the property have been considered. As such, these cannot be ruled out, and in my view the benefits of the scheme are insufficient to outweigh the harm that arises with regard to the main issue in this case.
16. The appellant refers to his religious beliefs and the difficulties experienced by his wife who is unable to feel comfortable in the house or garden given its visibility to passers-by. This has caused upset to the family. No further details or explanation on these matters have been provided. Nevertheless, I have had regard to the Equality Act 2010 and the Public Sector Equality Duty (PSED) to which I am subject. Section 149 (7) of the Act sets out the relevant protected characteristics which include religion or belief. Since there is the potential for my decision to affect a person(s) with a protected characteristic(s) I have had due regard to the three equality principles set out in Section 149 (1) of the above Act.
17. The negative impacts of dismissing the appeal arise since the wall would not be approved as sought. However, these impacts are mitigated by the possibility of alternative measures to meet the stated needs of increased privacy and security. As such, I find that the adverse impacts of dismissing the scheme on those with protected characteristics would be proportional having regard to the legitimate and well-established planning policy aims to protect the character and appearance of the surrounding area. Thus, even when taken alongside the other considerations forwarded by the appellant, the PSED considerations do not outweigh the harm I have identified in this case.

Conclusion

18. For the reasons set out above, and taking all other matters raised into consideration, I conclude that the appeal should be dismissed.

E Worthington

INSPECTOR