
Appeal Decision

Site visit made on 27 October 2022

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 13 February 2023

Appeal Ref: APP/W0734/C/22/3303380

13 Kenmore Road, Middlesbrough TS3 0SH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs Natasha Victoria French against an enforcement notice issued by Middlesbrough Borough Council.
 - The enforcement notice is dated 23 June 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission, there has been a height increase of the front boundary wall and addition of copings and railings and installation of new entrance gates. The development is contrary to guidance within the NPPF and Local Policies CS5 and DC1 of the Core Strategy.
 - The requirements of the notice are: (i) Lower the wall, railings and copings so that no part exceeds the permitted development height of 1 metre. (ii) Lower the gates so that no part exceeds the permitted development height of 1 metre.
 - The period for compliance with the requirements is 12 weeks.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Decision

1. The appeal is dismissed, the deemed planning application is refused, and the enforcement notice is upheld.

Ground (a) and the deemed planning application

Main Issue

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

Reasons

3. The 'Middlesbrough's Urban Design Supplementary Planning Document' (SPD) states that 'the most appropriate option for new boundary treatments will be the least intrusive and should be in keeping with the surrounding area.' It makes reference to open plan areas, where an open and uncluttered street scene is favoured. In particularly prominent or open locations, the SPD advises that railings are the most appropriate style of boundary treatment.
4. In this case, the Council's concern relates to the new entrance gates at the appeal site, and the new front boundary wall which extends towards Penny Avenue. Although the Council do not specify that the site is in an open plan area, it is characterised by dwellings set well back from the roads, leaving

- ample room for pavements and grassed areas. This arrangement gives the area a feeling of openness and spaciousness.
5. The surrounding area is characterised by a variety of boundary treatments, including railings, fencing, hedging and brick walls. Although there were a few taller examples, the dominant characteristic is that boundaries tend to be low in height, and relatively plain and unobtrusive in design.
 6. The new front wall and gate at the appeal site are significantly taller than the majority of walls and gates in the vicinity. My attention has been drawn to boundary treatments in the area that exceed 1m in height. However, these examples demonstrate that such a height is in the minority, and not the prevailing form of development. Whilst there are other examples of railings set on boundary walls, the overall height of these is generally low.
 7. The new front wall is finished in white painted render. Whilst this finish may reflect that of the main house at No 13, it is a less common material in the wider vicinity of the appeal site. The development also introduces a number of different design elements, including piers with finial balls, decorative stretches of railings in black and gold, and two gold painted figures. The new gates continue the design theme established by the railings. These decorative elements are visually jarring in an area where the boundaries tend to be plain and unobtrusive in design.
 8. The appellant refers to a brick boundary wall at the property on the opposite corner that also has piers and ball finials, as well as timber fencing on top. Whilst I take this development into account, it is still relatively plain in character, in contrast to the appeal scheme.
 9. I accept that the railings create a degree of openness at the top, with the solid part of the wall reaching around 1.5m. However, the overall height of the development in combination with the overly fussy appearance of the design which combine to produce a development that is out of keeping with the prevailing character of boundary treatments in the vicinity.
 10. I accept that the majority of the outdoor amenity space at No 13 is at the front and side. The appellant argues that the high walls give privacy and safety for her young family. However, there is no evidence that these benefits could not be achieved through a more visually appropriate proposal. In any event, this is a temporary situation that would not justify the granting of permission for a development whose harmful impact would be permanent. I note that the side fence between the appeal site and the new dwellings to the rear is around 2m high. However, its planning history is not before me, which limits the weight I can afford it.
 11. I therefore conclude that the development unacceptably harms the character and appearance of the surrounding area, contrary to Policy CS5 of the Middlesbrough Local Development Framework Core Strategy (CS), which requires all development to demonstrate a high quality of design, and CS Policy DC1, which seeks to promote high quality and inclusive design. It also conflicts with the design advice given in the SPD.
 12. Within the National Planning Policy Framework (NPPF), there is a presumption in favour of sustainable development, with good design cited as a key aspect.

As I have concluded that the development gives rise to visual harm, it does not meet the criteria of good design in its context, and so it conflicts with the NPPF.

Other Matters

13. The development does not have any adverse impact on highway or pedestrian safety, or on the living conditions of neighbours. To that extent, it complies with the relevant local plan policies, but these matters are neutral in the consideration of the main issue of the appeal, which relates to character and appearance. The fact that no objections were received in response to the public consultation has little bearing on my consideration of the planning merits of the appeal scheme.
14. The appellant argues that the alteration of the development to comply with the requirements of the enforcement notice would give rise to nuisance from dust and rubble, and also noise. However, these effects would be temporary, and so would not justify the granting of planning permission in this particular case.

Conclusion

15. The appeal is dismissed, the deemed planning application is refused, and the enforcement notice is upheld.

Elaine Gray

INSPECTOR