
Appeal Decision

Site visit made on 27 June 2023

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th July 2023

Appeal Ref: APP/Z4718/D/23/3322756

38 Lansdowne Close, Batley WF17 0EZ

- 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 Haroon Nadat against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref: 2023/62/90755/E, dated 7 March 2023, was refused by notice dated 15 May 2023.
 - The development is described as retaining wall engineer works, green landscape and hard surface.
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Decision

1. The appeal is allowed and planning permission is granted for retaining wall engineering, green landscape, fence and hard surfacing works at 38 Lansdowne Close, Batley WF17 0EZ in accordance with the terms of the application, Ref: 2023/62/90755/E, dated 7 March 2023, subject to the following conditions:

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: DI-DR-P75-02 Revision B Existing And Proposed Site Plans And Elevations
- 2) Unless within 2 months of the date of this decision a scheme for soft landscaping works is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority's approval, the use of the site for the development hereby permitted shall cease and all equipment and materials brought onto the land for the purposes of the development hereby permitted shall be removed until such time as a scheme is approved and implemented. The scheme for soft landscaping works shall include details of species, plant sizes and proposed numbers and densities in accordance with plan DI-DR-P75-02 Revision B Existing And Proposed Site Plans And Elevations.

If no scheme in accordance with this condition is approved within 11 months of the date of this decision, the development hereby permitted shall cease and all equipment and materials brought onto the land for the purposes of the development hereby permitted shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

Any plants under the approved scheme which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Procedural Matters

2. It was evident from my site visit that whilst much of the works have already been carried out, a number of the elements as shown on the proposed site plans and elevations have not, in particular in relation to green landscaping measures. I have therefore dealt with the appeal on this basis.
3. The description of development in the banner heading above is taken from the planning application form. The Council's decision notice uses a different description. However, the submissions do not say that an amended description was agreed and as a consequence I have considered the appeal on the basis of the original description with the addition of a fence, as it is clear from the submissions that this also comprises part of the development. This is also reflected in my decision paragraph, along with minor wording changes.

Main Issue

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

Reasons

5. The appeal property consists of a semi-detached house which is found on a fairly uniform modern housing development that is set out in a planned layout. The property benefits from a relatively wide plot which also contains a detached double garage. In between, there is a paved area which extends up to and beyond a gated fence arrangement. To the rear of the property, level differences become marked due to a banked area. A retaining wall has been built around this area and extends up to a height of around 4 metres furthest away from the site frontage. It is of a breeze block construction that has been rendered. Woodland is found beyond the rear of the site which also extends down to the road to the side, close to telecommunications equipment.
6. The retaining wall lies some distance back from the site frontage and its highest point is also well set back from the house. The fence arrangement also provides some screening. It is also proposed to erect trellis structures on the wall that would contain vertical planting. This would satisfactorily lessen the visual effects that arise from its not unsubstantial size.
7. It is also evident that excavations have been made to accommodate the wall. This does not in itself have a great additional impact. It has created a larger usable rear outdoor amenity space and, as with the retaining wall, is seen against the backdrop of the remaining bank and in particular the woodland beyond.
8. It is also proposed that hardstanding areas would contain open green areas both to the front and close to the retaining wall, together with a linear

arrangement of shrubs/planters that would extend on either side of the fence. This would provide adequate soft landscaping to limit the visual effects on both the host property and streetscene resulting from the amount of this harder form of landscaping which is currently in place. The visual effect of where cars would be parked on the site would also be mitigated by the proposed open green area to the front, together with the shrubs/planters.

9. When the proposed vertical planting is considered with the open green areas and shrubs/planters, the development would not appear incongruous in the wider area. These measures would also bring about an appearance that would not be harsh and sterile in these largely residential surroundings. Accordingly, the overall effect would not be to overdevelop the host property, notwithstanding there is a mixture of outdoor treatments associated with the residential properties in this area.
10. I conclude that the development would not have an unacceptable effect on the character and appearance of the property and the area. As such, it would comply with Policy LP24 of the Council's Kirklees Local Plan Strategy and Policies (2019) which, amongst other matters, sets out that good design should be at the core of all proposals in the district and should be promoted by the form, scale, layout and details of all development respecting and enhancing the character, and by being subservient to the original building and in keeping with the existing buildings in terms of scale, materials and details.
11. The development would also comply with Key Design Principle (KDP) 1 of the Council's House Extension and Alterations SPD (2021) because it would be in keeping with the appearance, scale, design and local character of the area and the street scene. It would also comply with KDP2 as it would not dominate or be larger than the original house and be in keeping with the existing building in terms of scale, materials and detail. It would also accord with Chapter 12 of the National Planning Policy Framework which concerns achieving well-designed places.

Other Matters

12. With regard to the quality of the retaining wall, construction, land stability issues and associated hydrological considerations, the appellant has stated that it contains reinforcement and it appears from the evidence before me also to have been in place now for some time. I do not have substantive evidence to the contrary. This matter does not change my overall conclusion.
13. The appeal has been made on the basis of a householder development, so other uses related to vehicle parking on the site are not for my consideration. The same applies by way of the occupancy of the property.
14. I have also been referred to changes from a previously refused planning application¹ on the site for related works and whether these changes are sufficient. However, the development which is for my consideration is that which is specifically the subject of my appeal decision, not a previous scheme. I agree that what is shown on the submitted plans is not what is on site but this reflects that the development is not yet complete. I deal with this matter by way of a planning condition.

¹ Council ref: 2022/93528

Conditions

15. I have not included a condition which concerns the statutory timescale for commencement, as the development has already begun. I have included a condition concerning the approved plan showing the development, in the interests of certainty.
16. My decision is also predicated in the development as is shown on the submitted plan being implemented in full as it is reasonable and necessary to require the provision of the open green areas, the trellises that would support the vertical planting and the shrubs/planters arrangement. Precise details of the soft landscaping are however not before me. As a result, a condition is imposed to ensure these details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance as it is not possible to use a negatively worded condition to secure this matter before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met. The condition is imposed to protect the character and appearance of the area.

Conclusion

17. For the reasons set out above and having regard to all matters that have been raised, the appeal should be allowed subject to the conditions.

Darren Hendley

INSPECTOR