

Appeal Decision

Site visit made on 10 January 2024

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5TH February 2024

Appeal Ref. APP/B0230/D/23/3334124

15 Burford Close, Luton LU3 4DS

- 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 Paul Lindsay against the decision of Luton Borough Council.
 - The application ref. 23/00890/FULHH, dated 26 July 2023, was refused by notice dated 20 September 2023.
 - The development proposed is erection of a front left hand side brick boundary wall.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The description of the development proposed in the heading above is taken from the Council's decision notice except I have omitted the words "retention" and "resubmission". Retention is not an act of development and I am not aware that the application falls into the category of being a resubmission.
3. The subject wall, which is 1.15 m high according to the submitted plans, consists substantially of stone blocks rather than bricks as such, divides the front garden of the appeal property from the front garden of the adjacent house (14 Burford Close) and reaches up to the back of the footway.
4. The wall was completed in July 2022. The application was made retrospectively but this has no bearing on the planning merits of the case.

Main issues

5. I consider the main issues to be the effects of the boundary wall upon the character and appearance of this residential area and upon highway and pedestrian safety.

Reasons

6. Burford Close is a cul-de-sac of mainly detached houses which seem to date from the late 20th century. It was originally laid out to open plan principles. I found that the preponderance of open front boundaries, the variety of vegetation in some of the front gardens and the general absence of man-made
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boundary treatments forward of the dwellings combine to give a soft visual impression to this street scene.

7. This open plan layout was intended to be maintained because I am told that permitted development rights for fences, walls or other means of enclosure have been removed. This distinctive open and uncluttered layout was an integral part of the original design and it remains substantially intact.
8. That said, focussing on Burford Close rather than further afield, I noted the very low border fence between the front gardens of nos 44 and 45, a fence about 93 cm high between the front gardens of nos 20 and 21 and a brick wall separating the fronts of nos 13 and 14 from the fronts of nos 11 and 12 at the western end of the cul-de-sac close to no. 15. No planning history has been provided to suggest that these boundary treatments benefit from planning permission. As such, their presence carries limited weight. In any event, the first example is not far off ground level, the second has vegetation alongside it, whilst the nearby brick wall that halves the turning circle for nos 11, 12, 13 and 14 is sited end on to the cul-de-sac, such that it has only a limited impact on the street scene when approaching along the close from the east.
9. These examples are not identical to what has been constructed at no. 15. Plus, across an estate of 46 dwellings in the cul-de-sac, the examples are found at only a tiny proportion of the dwellings. There are high walls or fences running parallel to the roadside in some places (such as at nos 4 and 5) but they do not occupy front gardens. Rather, they provide for the reasonable screening of private back gardens and are likely to be features of the original layout.
10. The appellant points to other changes to the surroundings since the original estate was built and the permitted development restrictions were applied, in particular where some of the front boundaries between the properties now feature established landscaping or hedging. These changes have not been subject to planning control. They are acknowledged but they do not provide justification for the erection of sections of solid boundary walling where such permanent features are not widespread and do not determine the character of the locality. Moreover, most boundaries and indeed streets will benefit from hedging, tree planting or other soft landscaping because such measures can make an important contribution to the character and quality of urban environments. Some of the soft landscaping in the cul-de-sac I saw is a pleasing sight and gives a greener aspect to the original open plan layout.
11. The subject wall creates physical enclosure and built form along the boundary, projecting out prominently well beyond the front building line. It is highly visible when approaching along Burford Close from the east, fails to complement the setting of the dwellings hereabouts and disrupts the prevailing pattern of open front gardens found along Burford Close. Despite the use of materials which match the house, the wall appears as an incongruous, uncoordinated and obtrusive feature in the street scene. There has been material harm caused to the character and appearance of this residential area.
12. It also seems to me that a grant of planning permission in this case could make similar walling proposals to the front of other nearby dwellings more difficult to resist. Whilst each case should nevertheless be determined on its own merits, this consideration reinforces the arguments against the development.

13. The wall defines the common boundary. I hope another solution can be found, perhaps using some carefully chosen boundary hedging or shrubbery. I noted that the occupiers of some other dwellings in the cul-de-sac have achieved the same ends by judicious use of soft landscaping.
14. I find on the first main issue that the boundary wall harms the character and appearance of this residential area. There is thus conflict with Policies LLP1, LLP19 and LLP25 of the Luton Local Plan 2011-2031 which, when read together, aim for sustainable development of high quality design that enhances a sense of place and the distinctiveness and character of the area by responding positively to the townscape, street scene, site and building context, form, scale, height, pattern and materials, distinctiveness and natural features.
15. Good design is also a cornerstone of the National Planning Policy Framework. In failing to bring about a visually attractive solution that adds to the overall quality of this area and in failing to be sympathetic to local character, good design has not been achieved. The revised versions of that document, which were published in December 2023, do not materially differ to the September 2023 version, insofar as the planning policy context around the main issues in this appeal are concerned.
16. The views of the highways authority and the occupiers of 14 Burford Close coincided. The gist of the concern expressed is that pedestrian visibility would be compromised for drivers leaving the driveway to the neighbouring property at no. 14. Obstruction to visibility, especially of young children, is caused by the wall at 1.15 m high. I acknowledge that there is some evergreen vegetation behind the wall in the grounds of no. 14 that is significantly higher than that. This vegetation is not subject to planning control but I also noted that this vegetation was in fact lower than the wall for the first 70 cm or so back from the end of the wall next to the public footway.
17. The highways authority advised that the end of the wall should be reduced to a maximum height of 600 mm for a distance of 1 m measured from the back of the public footway. This seems to me to be a reasonable request. A planning condition could require such a minor adjustment to be provided within say 2 months of any permission. Local planning authorities are encouraged to consider whether otherwise unacceptable development could be made acceptable through the use of conditions. Mindful that at least 3 piers have already been successfully removed from the wall without causing any difficulties, it is not clear to me why the minor recommended changes to the wall "... *could cause problems to its stability or other construction factors*" as claimed by the local planning authority.
18. I find on the second main issue that with the recommended condition imposed, there would be no adverse effects upon highway and pedestrian safety and no conflict in that regard with the aims of Policies LLP1, LLP25, LLP31 and LLP32 of the Luton Local Plan 2011-2031 or the National Planning Policy Framework.
19. My finding on the first main issue is decisive to the outcome of the appeal. There is conflict with the development plan. The harm to visual amenity cannot be mitigated by the imposition of planning conditions and it is not outweighed by my finding on the second main issue or by other material considerations.

20. For the reasons given above and taking into account all other matters raised, I conclude that this appeal should not succeed.

Andrew Dale

INSPECTOR