



---

# Appeal Decision

Site visit made on 10 April 2024

**by Darren Hendley BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19 April 2024**

---

**Appeal Ref: APP/Z4718/D/24/3340486**

**239 Headfield Road, Thornhill Lees, Dewsbury, Kirklees WF12 9JN**

- 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 Ms Shaista Ahmed against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref: 2023/62/92237/E, dated 25 July 2023, was refused by notice dated 19 December 2023.
  - The development is described as 'a fence has been erected on the boundary walls on either side of my property measuring no higher than 6 feet.'
- 

## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The description of development in the banner heading above is taken from the planning application form. The Council's decision notice sets out a different description. Nevertheless, it is evident that both descriptions refer to the same development, namely fences on each side boundary wall to the front of the host property. The development has itself already been carried out and therefore the appeal has also been considered on a retrospective basis.
3. The planning application form refers to matters over whether the development requires planning permission. Within the context of an appeal under section 78 of the Act it is not though within my remit to formally determine whether the development requires planning permission. If the appellant wishes to ascertain whether the development is lawful, an application may be made under section 191 of the Act.

## Main Issues

4. The main issues are the effect of the development on (i) the character and appearance of the building and the area; and (ii) highway safety, with regard to access visibility.

## Reasons

### *Character and Appearance*

5. The development is sited along both side boundaries of the appeal site, extending up to brick piers on the site frontage. It consists of solid fence panels which are positioned on top of brick boundary walls, and so is of some

- height. It is staggered slightly in form as the ground levels gradually reduce from the site frontage towards the host property. The front of the site is enclosed by low boundary walls and piers, and decorative railings and gates. The area up to the front of the host property is paved and used for parking.
6. Residential properties on this stretch of the road are set out in a linear arrangement. The means of boundary enclosure between properties on their side boundaries to the front are predominantly low brick walls, or the occasional low fences or vegetation. The fronts of properties are fairly uniform, apart from modest porches, canopies and front extensions on the houses themselves. These structures, along with the boundary treatments, have not changed the prevailing open character between these properties and the road. This is especially the case when the low height of most of the boundary enclosure is considered. Brick is also the predominant material.
  7. When the substantial height of the development and its positioning is considered along with its solid form, it presents a prominent and incongruous feature. It results in a distinctly enclosed appearance which is detrimental to the character of the host property. The slight staggering of the height does not appreciably diminish this closed off appearance. Such an effect is extenuated by the contrast with the dominant use of wood, compared to the brick.
  8. Compared to much of the surroundings, the height and degree of the enclosure also fails to respect the open character quality of the front areas of the residential properties. The development is in distinct contrast to its location, in particular with the clear visibility that is afforded from the streetscene. While my attention has been drawn to a high boundary wall on nearby Ashfield, this is on a side street and the wall does not have the same prominence on Headfield Road.
  9. A further example of high gates and a wall and fence panel arrangement that I have been referred to is too distant from the site to appreciably inform the character, notwithstanding that a high degree of enclosure appears to be an historical feature of that property due to the high wall. Where there are the occasional examples of where boundary treatments are out of keeping, they have not changed the underlying character to the degree that justifies the development.
  10. I conclude that the development has an unacceptable effect on the character and appearance of the building and the area. As such, it does not comply with Policy LP24 (a & c) of the Council's Kirklees Local Plan Strategy and Policies (2019) (Local Plan) where it promotes good design; states that the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape; and is subservient and in keeping with the original building, amongst other matters.
  11. In addition, the development does not comply with Key Design Principles 1 and 2 of the Council's House Extensions and Alterations Supplementary Planning Document (2021) which set out that extensions and alterations should be in keeping, not be dominant and in keeping in terms of scale and materials. It also does not accord with Chapter 12 of the National Planning Policy Framework which seeks to achieve well-designed and beautiful places.

### *Highway Safety*

12. The gates on the site provide access to the parking area to the front of the host property. The gates lie close to where the side and front boundaries meet, and so also lie in close proximity to the development. A pedestrian footway of typical width runs adjacent to the site frontage, and then the road beyond.
13. With the height, solid designed form and positioning of the development, visibility of the access points into the site is noticeably restricted, expressly for pedestrians with the proximity of the footway to the access points. The separation provided by the footway affords some visibility for passing traffic, but such traffic also travels with some degree of speed.
14. On this basis, the development obstructs visibility for vehicles exiting the site and also the effect on the visibility for pedestrians and passing vehicles is of some detriment. There is no substantive evidence to the contrary. While the railings afford visibility, pedestrians and passing vehicles need to be already passing the site, or very close to it, for this to negate potential highway safety issues. As a consequence, there is not ample warning with the limited visibility beyond the site frontage.
15. I conclude that the development has an unacceptable effect on highway safety, with regard to access visibility. Hence, it does not comply with Policy LP21 of the Local Plan where it sets out that proposals shall demonstrate they can accommodate sustainable modes of transport and be accessed effectively and safely by all users; that new development will normally be permitted where safe and suitable access to the site can be achieved for all people; and ensuring the safe and efficient flow of traffic within the development and on the surrounding highway network, amidst other considerations.

### **Other Matters**

16. The Appellant has raised a number of matters over the dealings with the Council in relation to correspondence, communication, approach and procedure. Whilst I am not unsympathetic in this regard, my deliberations relate to considering the merits of the development. I acknowledge that the development provides some privacy but matters of character and appearance and highway safety are of wider public interest, and so this does not outweigh the harm that arises. Where examples of alleged inconsistency have been brought to my attention, I have considered these earlier in my decision.

### **Conclusion**

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

*Darren Hendley*

INSPECTOR