



Appeal Decision

Site visit made on 8 May 2024

by A Veevers BA(Hons) PGDipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th May 2024

Appeal Ref: APP/U2370/D/23/3331842

106 Hardhorn Road, Poulton-le-Fylde, Lancashire FY6 8AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Carlo Fusco against the decision of Wyre Borough Council.
 - The application Ref is 23/00788/FUL.
 - The development proposed is described as 'replacement of 1m high boundary wall and hedging above with 1.4m high gabion fence infilled with white pebbles along with rendered entrance piers and sliding gate (part retrospective)'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. From the evidence and observations at my site visit, it is apparent that construction work on a gabion fence at the appeal site was well advanced; however, what is under construction at present does not entirely match the plans before me. As such, for the avoidance of doubt, I have determined the appeal on the basis of a proposed development as shown on the submitted plans.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal property is a detached dwelling. It is located on the west side of Hardhorn Road within a residential area that is characterised by detached dwellings of various forms located on modest sized plots. Dwellings are generally set back from the road behind low brick walls and landscaping and the west side of the road includes a grass verge. The generous front gardens, low walls and broadly open character along the road contributes positively to the area, giving a pleasing consistency to the street scene.
5. There are a small number of examples where high boundary walls or fences are sited close to the pavement along Hardhorn Road and these in my view stand out as more discordant elements in the generally attractive and verdant street scene.
6. Given its location on the road frontage, the proposal would have a prominent position within the street, close to a bus stop. The proposal would introduce relatively high slatted sliding gates and a solid gabion fence across the full

width of the plot which would appear visually at odds with surrounding boundary features.

7. Although new and innovative development need not necessarily imitate surrounding built form, it must complement its context. The proposed development would be constructed in materials which are not evident elsewhere in the vicinity of the appeal site. In this particular location, while the large white marble cobbles and white render would match the render used on the appeal property and traditional cobbles of muted colour may well be found in other locations in the borough, in the context of the appeal surroundings, the galvanised steel gabion fencing and white cobbles would stand out as a visually intrusive and discordant feature in the area, in stark contrast with other front boundaries along Hardhorn Road.
8. Paragraph 139 of the National Planning Policy Framework (the Framework) identifies that significant weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area only so long as they fit in with the overall form and layout of their surroundings, which the proposed development would not. Due to its height and proposed materials, it would detract from, rather than enhance, the character and appearance of this particular area.
9. Even if the proposed trees were to be planted behind the gabion fence, as indicated on the plans, it would not be sufficient to soften the appearance of the fence, due to the combination of its position, height and materials.
10. I therefore conclude that the proposed development would be harmful to the character and appearance of the area. Consequently, it would conflict with Policy CDMP3 of the Wyre Local Plan (2011-2031) (incorporating partial update of 2022) adopted January 2023, which seeks, amongst other things, that development is of a high standard of design which respects or enhances the character of the area and makes a positive contribution to an attractive and coherent townscape. It would also be contrary to guidance set out in Chapter 12 of the National Planning Policy Framework that relates to well-designed places.

Other Matters

11. In support of the proposal, the appellant refers to several boundary features along Hardhorn Road. Although the brick piers either side of the entrance to the neighbouring properties at No.104 Hardhorn Road and the piers and entrance wall at No.108 Hardhorn Road would be higher than the proposed gabion fence, they are constructed in brick and the remaining frontages to these properties comprise of a low brick wall with vegetation above. They are therefore materially different to the scheme before me.
12. Other examples of high walls and fences fronting Hardhorn Road have been drawn to my attention by the appellant. However, these are relatively rare exceptions to the prevailing style and I have not in any event been directed to any examples along this road that have used comparable materials to the appeal proposal. Even if a gabion wall has been erected along the frontage of a property on Oldfield Carr Lane, this is some distance from the appeal site on the edge of open countryside and is not visible in the same street view.

13. I do not therefore find this example to be a compelling justification for the development before me, which I have considered on its own merits. In any event, the existence of other varied boundary treatments in the locality does not outweigh my findings in respect of the character and appearance of the area.
14. Under the terms of Class A, Part 2 of Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 there are permitted development rights to erect a means of enclosure of no higher than 1m adjacent to a highway. The appellant contends that this is a potential fall-back position.
15. For the fall-back position to carry weight as a material consideration it should have a similar or greater effect than the appeal proposal. The proposed gabion fence would, according to the measurements on the plan, be only 0.4m higher than could be erected without planning permission. Nonetheless, in this instance any increase in the height of the boundary treatment increases its prominence and harm to the character and appearance of the area. Accordingly, the fall-back argument presented by the appellant does not justify the harm I have identified, as a lower boundary treatment would have a less harmful impact on the character and appearance of the area.
16. The appellant contends that the proposal would replace a wall and hedge that was of a similar height. However, the previous wall was low and was softened by the presence of the hedge in the front garden of the property which grew above the wall. Thus, it was materially different to the proposed development.
17. Even if the previous wall had collapsed, there is no compelling evidence to indicate why it could not have been repaired or replaced. Neither has it been adequately demonstrated why the proposal is the only option that would avoid passers-by using a front boundary structure, or that this need outweighs the significant, wider public harm that would be caused by this proposal.
18. The appellant advises that the gabion fence would increase the privacy, safety and security of the property and vehicles parked within the property boundary. However, I have not been provided with substantive evidence to demonstrate that a boundary of the height and design proposed would be necessary to achieve these objectives. As a result, I afford this matter little weight.
19. I have considered the appellant's rights under Article 1 of the First Protocol and Article 8 of the European Convention on Human Rights as incorporated into the Human Rights Act 1998. These afford the right to the protection of property and respect for private and family life. They are qualified rights, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. Dismissing the appeal would interfere with the appellant's rights under Article 1 and Article 8, since the consequence would be that the appellant would be unable to enclose the front garden as proposed.
20. However, the interference would be in accordance with the law and in pursuance of a legitimate aim which is the regulation of the development of land in the public interest through the planning process. Given the circumstances overall, I find that dismissal of the appeal is both proportionate and necessary.

21. Paragraph 10 of the Framework refers to a presumption in favour of sustainable development. A high standard of visual amenity is a key element of sustainability as set out in paragraph 135. In this case, given that the development is harmful to the character and appearance of the area, it does not constitute the sustainable development that the Framework seeks to achieve.
22. While I note comments in favour of the proposal, these are neutral matters rather than carry positive weight in favour of the development. I have also noted the appellant's comments highlighting absence of identified harm to neighbours' living conditions, highways, trees, ecology and that the site is not within a conservation area, Green Belt or flood plain. Even if I were to agree that there would be no unacceptable effects relating to these matters, these are also neutral factors which would not outweigh the harm identified and conflict with the development plan as a whole.

Conclusion

23. For the reasons given above, the proposal conflicts with the development plan taken as a whole, and the Framework, and there are no material considerations of sufficient weight to lead me to conclude otherwise.
24. Therefore, the appeal is dismissed.

A Veevers

INSPECTOR