



Appeal Decision

Site visit made on 10 July 2024

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 16 July 2024

Appeal Ref: APP/C1055/W/24/3339424

14 Birches Road, Derby DE22 2HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Graham Howell against Derby City Council.
 - The application Ref is 23/00539/FUL.
 - The development proposed is the replacement of existing front wall which currently retains the existing driveway, providing greater security to the property given the recent trespassing experienced. The wall will have pillars which in between will have fencing rails. The wall will be finished in the same render as the house and the rails in anthracite grey to match the existing property windows.
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Decision

1. The appeal is dismissed and planning permission is refused.

Applications for costs

2. The appellant has submitted an application for costs against Derby City Council. This is the subject of a separate decision.

Preliminary Matters

3. A blockwork wall and pillars were in place at the time of my site visit although it had not been rendered nor were there any fencing rails installed. I have therefore dealt with the appeal on a partly retrospective basis.
4. The Council failed to determine the planning application within the prescribed period. A decision notice was issued by the Council after the lodging of the appeal. This has no legal standing, as jurisdiction on the planning application passed to the Secretary of State when the appeal was lodged. I have treated the notice as being indicative of the decision the Council would have made which would have been to refuse the application based on issues of character and appearance.
5. The appellant has provided a modified version of the drawing with the appeal, showing the pillars removed, reducing the amount of blockwork proposed. However, it is not the role of the appeals process to evolve a scheme and whilst I understand the appellant's frustrations with the Council in the time taken to deal with the application, the modified drawings were not consulted on by the Council as far as I am aware. I therefore must deal with the appeal based on the drawings submitted to the Council initially.

6. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.

Main Issue

7. Based on the evidence before me, the main issue is the effect of the development on the character and appearance of the area.

Reasons

8. The area comprises of two storey detached and semi-detached dwellings set back behind front gardens and driveways, within a residential area. The road slopes down from north to south. Where front boundary treatments are in place along Birches Road, they are generally brick walls, close boarded fencing, horizontal timber boarding, railings or hedgerows.
9. With regard to front boundary treatments that consist of built form, they are relatively limited in height and in the significant majority of cases they step down from north to south along the frontage of each property, reflecting the change in levels along the road. The prevailing pattern of built form boundary treatments contributes positively to an open and spacious character and provides a visually pleasing rhythm and balance along the street scene.
10. The boundary wall does not follow the prevailing pattern of other boundary treatments that consist of built form in that it is not stepped down to reflect the change in levels along the road. Whilst there are a variety of materials used for front boundary treatments, as set out above, there are no other rendered walls along the frontages of properties along Birches Road. Due to the solidity, height, non-stepped design and materials proposed, it would, once completed with the fencing rails, appear as a dominant feature which would be at odds with the open and spacious character and appearance of front boundary treatments in the immediate area.
11. During the site visit I viewed the works already carried out from the driveway as requested. Whilst I acknowledge it does not appear out of keeping with the level of the driveway from views within the property, this does not alter that when viewed from public vantage points, the wall does not appear sympathetic to the established character and appearance of the street scene as set out above.
12. I viewed the property identified on Harewood Road and also walked along Allestree Lane during my site visit. I noted the presence of a very limited number of properties with a rendered front boundary wall. In each case, a change in level along the respective roads was not as apparent as in the case before me and the length of the walls were more limited. None of them were visible in the same context as the appeal site. I do not find that any of the examples in the wider area alter my view set out above.
13. I therefore find that the development is harmful to the character and appearance of the area. It is contrary to Policies CP3 and CP4 of the Derby City Local Plan – Part 1 Core Strategy January 2017 which seek, amongst other things, that developments exhibit locally inspired or distinctive character and that boundary treatments respond appropriately to the local context. The

development is also contrary to paragraph 135 of the Framework which seeks to ensure that developments are sympathetic to local character.

Other Matters

14. I note the appellant's intention to improve security at the front of the appeal property following previous issues of trespassing. I have limited information on this. Whilst I sympathise with the appellant, this consideration does not outweigh the harm I have found above.
15. No objections were raised by the Highway Authority. A lack of harm in this respect weighs neither for nor against the proposal.
16. The appellant asserts that they have tried to have an open dialogue with the Council in order to amend the scheme to resolve the issues raised but that the Council has not engaged with the process effectively. Whilst this is unfortunate and I understand that this is frustrating, it is not something that I can consider as part of the assessment of the appeal.

Conclusion

17. The development conflicts with the development plan as a whole. Material considerations do not indicate that a decision should be made other than in accordance with the development plan. The appeal is therefore dismissed, and planning permission is refused.

G Dring

INSPECTOR