



# Appeal Decision

Site visit made on 18 April 2023

**by Graham Wraight BA(Hons) MSc MRTPI**

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

**Decision date: 24<sup>th</sup> April 2023**

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**Appeal Ref: APP/Z4718/D/23/3317249**

**32 Nettleton Avenue, Mirfield WF14 9AN**

- 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 M Wormald against the decision of Kirklees Metropolitan Council.
  - The application Ref 2022/62/93354/E, dated 11 October 2022, was refused by notice dated 19 December 2022.
  - The development proposed is the erection of boundary fence.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. I have used the description of development stated on the decision notice and appeal form in the banner header above as this more concisely describes the appeal development.
3. The boundary fence has already been erected and therefore I have determined this appeal on the basis that it is a retrospective proposal.

## Main Issue

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

## Reasons

5. The appeal dwelling is located on the corner of Nettleton Avenue and Nettleton Road, which means that the fence occupies a prominent position within the street scenes of both roads. Boundary treatments in the vicinity of the appeal site are predominantly of a limited height and consist of low walls and low fences, and of established hedges which are for the most part also maintained at a low level. These features contribute positively to the character and appearance of the area by giving the frontages of the dwellings an open feel. Conversely, the few boundary treatments that are higher, such as that found at a property on the corner of Wilson Avenue and Nettleton Road, are so infrequent as not to define the character and appearance of the area.
6. The appeal fence is of a considerable height and extends along what is an extensive boundary with Nettleton Avenue and Nettleton Road. In views taken along Nettleton Avenue towards the appeal site the fence appears incongruous, oppressive and imposing as its height and use of material are in stark contrast to the lower hedges that are found on the front boundaries of the nearby

properties on that road. On Nettleton Road, the appeal fence is primarily viewed in the context of the nearest dwellings on the opposite side of the road, in particular in views taken up the road. Those dwellings have low brick walls on their front boundaries that are not of a comparable height or material to the appeal fence. As a result, they do not have a similar visual impact to the appeal development. For that reason, within the Nettleton Road street scene the appeal fence also has an incongruous, oppressive and imposing impact due to its positioning, height and use of materials.

7. For these reasons I conclude that the development has caused significant harm to the character and appearance of the area. Consequently, the development fails to accord with Policy LP24 of the Kirklees Local Plan Strategy and Policies 2019 which seeks to promote good design and to protect character and appearance. There is also a conflict with Policy KDP1 of the House Extension and Alterations Supplementary Planning Document 2021 in the same regard, and with the National Planning Policy Framework where it seeks to achieve well-designed places.

### **Other Matters**

8. The fence provides a degree of privacy to the area to the front and side of the appeal dwelling, but this area is hard surfaced and does not appear to be an attractive proposition for amenity purposes. Furthermore, the wide opening of the vehicular access substantially undermines the level of privacy afforded. It would also appear that the dwelling has a private rear garden area which itself is sited behind a high fence. The presence of the wide ungated vehicular access means that any security benefits provided by the fence would be limited. These considerations do not therefore outweigh the harm to the character and appearance of the area that has arisen.
9. A one metre high fence that it may be possible to erect under permitted development rights would be considerably lower than the appeal fence. Its height would therefore be more in keeping with the scale of the prevailing boundary treatments in the area and its impact would not be comparable to the appeal development. This potential fallback position does not therefore justify the retention of the appeal fence.
10. Whilst the fence may soften slightly in its appearance as it weathers, and it is evident that the fence has been constructed to a high standard, these factors do not overcome the impact that arises due to its height. I acknowledge that no objections and one letter of support for the development were submitted during the planning application process. That representation referenced concerns relating to the hawthorn hedge that was previously in place. However, there is no substantive evidence to suggest that the hedge caused harm to highway safety and if properly maintained it would not have impeded the use of the pavement. These matters also do not therefore justify the harm caused by the appeal development.

### **Conclusion**

11. For the reasons given above, I conclude that the appeal should be dismissed.

*Graham Wraight*

INSPECTOR