

<u>APPLICATION NO:</u>	23/01602/FUL	<u>CASE OFFICER:</u>	Maxine Wishart
<u>WARD:</u>	Shevington	<u>PARISH:</u>	
<u>LOCATION:</u>	27 Hobart Drive, Tower Hill, Kirkby		
<u>PROPOSAL:</u>	RETENTION OF FRONT PORCH, ALTERATIONS TO EXISTING WALL ALONG THE BOUNDARY WITH NO. 25, INVOLVING PARTIAL REMOVAL FOR 2 M INTO SITE AND REPLACEMENT OF 2 M LENGTH WITH 900MM HIGH METAL RAILINGS AND REMOVAL OF WALL ALONG BOUNDARY WITH NO. 29		

Local Plan Policies Map Allocation

Primarily Residential Area.

Site Description

The application relates to a two-storey semi-detached dwelling located on the southern side of Hobart Drive, Kirkby. The property is located on an established open plan residential estate.

The host property is set far back into the plot. The property benefits from a private garden to the rear. A small area of grass is located to the front with a long, curved driveway providing vehicular access directly from Hobart Drive. The driveway sits adjacent to the driveway associated with the adjacent property, No. 29 and the front section of the driveway sits immediately adjoining the driveway of the attached dwelling, No. 25.

A boundary wall has been erected along the common boundary with No.25 which is the subject of this application. Another smaller section of wall was until very recently sited along the common boundary with No. 29, this has been removed.

The property benefits from an entrance porch, its retention is part of this current application.

The property and its neighbours along this part of Hobart Drive do not observe an established building line, the dwellings across this development having staggered arrangement. The host property and its adjoining semi-detached are set behind neighbouring properties either side.

Proposal

The planning application seeks consent for the retention of an entrance porch and the retention of part of an existing boundary; replacement of a section of the wall with railings and the removal of a front section along the common boundary with the adjoining property, No. 25 Hobart Drive. In addition, the application sought the removal of another section of wall to the common boundary with No. 29, the removal of that section does not require planning permission and nevertheless was recently

taken down.

The porch has dimensions of 1.9 m wide by 2.3 m deep. It has a duo-pitched roof which attains a height of 2.9 m. The porch is glazed in Anthracite Grey uPVC framework with an Anthracite Grey entrance door with glazed panels either side and an apex window above the door. It has full length glazed panels on both side elevations with a brick base plinth in grey brick. The host dwelling has Anthracite Grey windows. The roof is constructed in grey artificial slate which harmonises with the roof of the host dwelling.

The section of wall proposed to be retained is 1.1 m high at its highest point dropping down to 1.02 m with two brick pillars attaining a height of 1.4 m. It is proposed to remove a 2 m section of the wall set back into the site from the highway and make good the floor with pavers. A further 2m section of wall would be replaced with ball top metal railings set atop of the existing brick plinth to a maximum height of 900mm. The retained section of wall and pillars are K-Rend finished in white with grey coping stones. The ball top railings would be finished black.

Following discussion with the applicant's agent the application has been amended to address concerns raised by the Local Highway Authority. The amendments relate to the removal of the 2 m section of wall at the front along the boundary with No. 25.

Consultations

Highway Authority - No objections.

Representations

The application has been amended since original submission and two rounds of publicity have been carried out by the Council. On each occasion this involved notifying neighbours by letter.

The application has been publicised by letters sent to 9 neighbours. During the initial round of publicity 2 emails of objection were received from one person.

A further objection was received from the same person following the second round of publicity.

All objections were

The representations are summarised as follows:

a) Safe road access onto neighbouring driveway

- Railings would exceed the sole ownership boundary (end of grass) and cross into an area which is shared by both neighbours which previously ensured safe passage of entering and exiting our driveways.
- The end of the grass which finishes at a point would be the end of sole ownership.
- Access off neighbouring drive is narrowed at the end due to the curving nature of the wall / rail and it crosses onto shared path. If the railings extend to the same length this problem will remain.

- Applicant would have plenty of access in and out of their path as the structure on the other side adjoining number 29 will be removed. This will alleviate restrictions which have caused vehicle damage vehicle on several occasions but leave them with existing problem.
 - By removing the structure on the other side, suggests applicant realises the impact and hazard it causes setting an improved safety president for the applicant and other neighbours, ignoring writer's safety needs.
- b) *Adequacy of parking / loading/deliveries / Emergency vehicles / visitors*
- Visitors will not risk damaging cars and park in the road, which has caused problems with other neighbours and community relations.
 - Others park on the bend facing writer's house impacting on getting in and out of driveway due to the wall.
 - Wall causes added safety consideration in relation to oncoming traffic and parking and having to negotiate narrowed opening whilst trying to avoid going over neighbours grass,
- c) *Highway safety*
- Removal of the wall to be replaced by railings, will not reduce potential future collisions/accidents, if they protrude as far as the current wall including the pillar.
 - may help improve visual site of road, traffic and parked vehicles it will still inhibit driving on and off writer's drive safely.
- d) *Collisions 2021 - 2024*
- Since construction of the walls there have been many near misses and collisions with the wall adjacent to No. 29.
- e) *Causing problems / relations with other neighbours*
- f) *Curb [sic] appeal*
- g) *Mental Health and wellbeing*
- h) *Civil Law*
- i) The existing wall is far higher than regulations allow, willing to compromise with this aspect, to save reconstruction at this point. Could stop the build at the point the grass ends, as a compromise, to eventually make the best of this situation

Further comments have been made following the second round of publicity and are summarised as follows:

- j) Will not know if there will still be problems with entry and exit off writer's drive etc., until live with the new structure.
- k) If still a problem, after permitted, will have nowhere to go with that, and will just have to live with it.

- l) Can you please make the structure as far enough back off road as possible, so that situation cannot happen.

Planning History

APP. NO: 97/00414/APP
PROPOSAL: ERECTION OF 253 NO. TWO STOREY DWELLINGS
TOGETHER WITH PROVISION OF PUBLIC OPEN SPACE
AND CONSTRUCTION OF NEW VEHICULAR AND
PEDESTRIAN ACCESS
DECISION: Granted
DECISION DATE: 30 September 1998

APP. NO: 21/00499/FUL
PROPOSAL: ERECTION OF GATE POSTS AND BOUNDARY WALLS
FORWARD OF THE DWELLING TO A HEIGHT OF BETWEEN
1.2 M UP TO 1.8M HIGH
DECISION: Withdrawn
DECISION DATE: 29 August 2024

Relevant Policy

Paragraph 11 of the National Planning Policy Framework (NPPF) states that planning decisions should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up-to-date development plan without delay; or where the development plan is absent, silent or out of date planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Paragraph 12 of the NPPF clarifies that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not normally be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

The development plan in Knowsley comprises the Saved Policies of the Replacement Unitary Development Plan, the Core Strategy Local Plan and the Joint Waste Local Plan. The following policies are relevant to the determination of this application.

The Householder Development SPD is a material consideration for the purposes of this planning application and provides additional guidance in relation to householder development within Knowsley Borough.

NATIONAL PLANNING POLICY FRAMEWORK

SAVED POLICIES - KNOWSLEY REPLACEMENT UNITARY DEVELOPMENT

PLAN (ADOPTED JUNE 2006)

H5 - Development within Primarily Residential Areas

H8 - Extensions and Alterations to Residential Properties

KNOWSLEY LOCAL PLAN: CORE STRATEGY

CS2 - Development Principles

CS7 - Transport Networks

CS19 - Design Quality and Accessibility in New Development

SUPPLEMENTARY PLANNING DOCUMENTS

Householder Development SPD (2016)

Article 35 Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating with the applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Assessment***Background***

The host property is subject to a planning condition that removes permitted development rights to install boundary treatments between the front or side wall of the house and the highway without the permission of the LPA (Condition 7 Ref: 97/00414/APP). The wall as erected is therefore unauthorised development.

Notwithstanding the provision of Schedule 2 of the Town and Country Planning (General Permitted Development) Order, 1995, (or any order revoking and re-enacting that Order) no gate, wall or fence shall be erected between the front or side wall of any dwelling and the boundary of any highway adjoining curtilage of that dwelling or the boundary with any open space (other than walls and / or fences submitted and approved in accordance with condition 6) without the written permission of the Local Planning Authority being first obtained.

Reason: To retain the character of the proposed residential development.

Timeline

On 14 June 2021 a planning application was submitted (Ref: 21/00499/FUL). Rather than relating to the 'as built' walls, the application sought to retain the length of the wall along the boundary with No. 25 Hobart Drive and increase its height. The application was made valid on 26 August 2021.

The applicant was advised that the proposal failed to meet relevant planning policy requirements and would not be supported without amendment. Subsequent amendments did not address concerns raised. Despite a number of attempts to contact the appointed agent no further contact was received.

In November 2022 the LPA was made aware that the applicant had also erected a new porch to the host property. It was established that planning permission was

required due to the overall dimensions exceeding permitted development limitations. On 3 July 2023, a planning application (Reference 23/01602/FUL) was submitted seeking retrospective permission for the porch. Insufficient detail was submitted and the application invalid.

Despite correspondence and site visits to meet with the applicant by both the Enforcement Officer and case Officer where the applicant was advised of the 'next steps'; amendments that would be required; and the expected standard of plans that would be required. No further progress was made with either planning application.

On 1 August 2024, as the application for the wall did not relate to the 'as built' development, the applicant was sent warning of the LPA's intention to 'finally dispose' of the planning application (21/00499/FUL - 1.2 and 1.8 m high walls). The applicant subsequently withdrew the planning application on 29 August 2024.

On 8 August 2024 an Enforcement Notice was issued against the breach of planning control which requires the applicant to permanently remove the walls and the materials used in their construction from the property and restore the tarmacked surface of the driveway in the areas where the walls have been removed. A subsequent variation to the Notice was issued on 5 December 2024 to vary the compliance date from three to six months. This was to allow amendment to the scheme to be given consideration. Nevertheless, procedurally, the Enforcement Notice is separate from the planning application.

No appeal against the notice was made within the relevant timeframe. The approval of the planning application under consideration would override the Enforcement Notice.

In September 2024 the applicant appointed a new planning agent who engaged with the LPA to discuss the way forward. On 3 December 2024 information was submitted and the application currently under consideration amended to include, together with the porch, the retention of part of the wall 'as built' and a 4 m section of railings to the front.

On 6 March 2025, following objection raised by Local Highway Authority, amendments were made to the scheme currently under consideration.

On 12 March 2025 the applicant's agent advised that the smaller wall along the common boundary with No. 29 had been removed.

Design and Amenity

Porch

The host dwelling is set back well into the site from the street. There is no established building line.

The Householder Development SPD requires that the size and projection of front extensions will depend on the type of dwelling and degree of set-back from the highway; they should not dominate the existing dwelling or disrupt uniformity of a group of similarly designed dwellings; and they should not obstruct the outlook of neighbouring dwellings or detract from their privacy and sufficient car parking should be retained. Other properties in the vicinity have erected porches to the front. The porch is of satisfactory scale. The design is appropriate and is constructed of acceptable materials that harmonise with the host dwelling. It would not detract from the streetscene or the character of the area.

Extensions should not cross a 45 degree line from the middle of a neighbour's nearest habitable window in order to protect the amenities of neighbouring dwellings from overshadowing or obstruction of outlook. The porch is sited 693mm from the common boundary with No. 25 Hobart Drive and projects 2.3 m deep.

The corner of the porch marginally clips a 45 degree line from the neighbour's window, however given the glazed element of the porch and the degree to which it extends into the 45-degree line, it is not considered that the degree of impact would be so harmful to the amenity of the occupiers of No. 25 to warrant refusal of planning permission.

Wall

As noted above, there is a condition restricting the erection of any gate, wall or fence to the front and side between dwellings and the highway, on this residential estate, The Householder Development SPD states that residential estates that were designed on 'open plan' principles should retain this characteristic unless a suitable justification can be put forward for enclosing the front of a particular dwelling. The SPD continues to advise that the style and materials of all gates, walls and fences should match or be in harmony with the existing style of the boundary treatment in the surrounding area or, when this more appropriate the dwelling itself.

It is acknowledged that there are several properties that have breached that planning control. It is noted that other examples of railings and fencing in the vicinity of the site have been in place for a period of time that would exempt them from enforcement action (4 year rule) or are such that it would not be expedient to take enforcement action. It is acknowledged that these other examples are less dominant and not in such a prominent position than the scheme under consideration.

Nonetheless, there are other long lengths of high brick walls across the estate, including that immediately opposite the application site which is sited immediately adjacent to the pavement and which forms a prominent feature in the streetscene. (No. 32 Hobart Drive).



It is recognised that the wall is finished in white render and the application of this finish is not characteristic of the dwelling or the surrounding area, however, the wall has been in situ for a number of years and has become assimilated into the streetscene and the proposed amendments would significantly reduce any impacts.

Having regard to the surrounding streetscene and the proposed amendments to the wall it is considered that the development would not cause significant detrimental impacts on the visual amenity of the streetscene.

It is noted that there has been objection raised in relation to “curb [sic] appeal” which is assumed relates to visual amenity. A balanced judgement has to be made when assessing the proposal against the development plan and other material considerations. Given the above it would be difficult to reasonably refuse the proposal on the grounds of impact on visual amenity and impacts on the streetscene.

The wall would not result in loss of light or overshadowing of the neighbouring properties. Amendments to the wall would ensure that the wall does not hinder the neighbour’s ability to safely access / egress their site.

Concern has been raised by a local resident that the proposed development is causing problems / relations with other neighbours. Impacts on the surrounding properties has been assessed and the proposed development is not considered to raise any material planning considerations in relation to impact on the neighbours. The relationships between neighbours is not a material planning consideration.

The proposed development would be of an acceptable design and impacts on the character of the streetscene and the amenity of neighbouring properties would be satisfactory and would comply with the NPPF, Saved UDP Policy H5, Local Plan Policies CS2 and CS19 and the Householder Development SPD.

Highways Considerations

Policies CS2 and CS19 of the Core Strategy, Saved Policy H5 of the UDP and the Householder Development SPD together require new developments to ensure, amongst other things, that there are no detrimental impacts on neighbours, and it does not create potential hazards to highway users by obstructing visibility for pedestrians or drivers of motor vehicles.

There has been objection to the development from a local resident which focuses on impacts on highway safety and the safe access and egress of adjacent driveways. Comments are also made that the restricted access has resulted in vehicle damage resulting in reluctance of visitors to use the drive resulting in on-street parking which has in turn resulted in problems with neighbours all of which is noted.

The writer indicates that access into their site is further restricted by cars parked on the highway at a bend in the road and that the wall causes added safety issues from oncoming traffic and street parking when negotiating the narrowed opening. The objector considers that replacement with railings would not resolve these issues, and would not reduce future potential collisions / accidents and continues to maintain that whilst it may improve visibility it would still inhibit safe use of the drive.

The objector comments that the existing wall is far higher than regulations allow but they are willing to compromise with this aspect, to save reconstruction...could stop the build at the point the grass ends, as a compromise.

It should be noted however, that the above comments were made prior to amendments were made to the scheme.

The Local Highway Authority had previously raised objection to the proposed development recommending that the proposed boundary wall, along the common boundary with No. 25 be shortened by approximately 2 metres to address visibility and manoeuvrability concerns. The amended drawings now show a 2-metre section of clear space without boundary treatment, in line with the suggested modification from their earlier Highway comments. As such, the Local Highway Authority have no objections to the proposal.

Having regard to the objections received and the amended scheme, it is considered that the revisions are deemed sufficient to address the highway safety concerns, as confirmed by the Local Highway Authority's response.

As amended the proposal is considered to comply with Policies CS2 and CS19 of the Core Strategy, Saved Policies H5 and H8 of the UDP and the Householder Development SPD.

Other Considerations

Response to Representations (not covered above)

In relation to objection made regarding land ownership and that the proposed railings would cross into an area shared by both neighbours which had previously enabled safe use of the drive. The scheme has now been amended and the wall would be pulled back into the site. Nevertheless, land ownership itself is not a material consideration that the LPA should take into account when determining the application. As required, the applicant has completed a certificate of ownership which indicates they are not the sole owner of the land, and in this case have served notice on No. 29 Hobart Drive. The LPA should therefore reasonably believe that the certificate submitted accurately reflects the ownership details of the land in question, based on the information available to them.



Other comments received refer to mental health and wellbeing. Individual circumstances, including that of mental health is noted and whilst a material consideration, no further comments have been made on how the proposed

development would have an impact. Nevertheless, the planning process has addressed in this report the impacts on residential amenity in accordance with planning policy and the proposal is considered to be acceptable in this regard.

In terms of the representation made stating "civil law", the objector does not expand further and no comment can be made. However, it is noted above that land ownership is not a material planning consideration and this would be a civil matter.

Conclusion

As amended the proposed development would have acceptable impacts on visual and residential amenity and would not have a detrimental impact on highway safety. The application is therefore recommended for approval.

Recommendation

That planning permission be granted subject to the following conditions:

- 1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: In order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2) The development hereby permitted shall be carried out in accordance with the approved plans and documents listed in Schedule 1.

Reason: For the avoidance of doubt.

- 3) Within 3 months of the date of the permission hereby granted the approved works shall be completed in accordance with the agreed details.

For the avoidance of doubt this shall include:

- Removal of the relevant section(s) of wall
- Installation of the replacement railings
- Replacement coping stones where necessary
- Making good of ground

Reason: In the interests of visual amenity and to comply with the National Planning Policy Framework (2024), Saved Policy H5 of the Knowsley Replacement Unitary Development Plan, adopted, June 2006 and Policies CS2 and CS19 of the Knowsley Local Plan Core Strategy, adopted January 2016.

- 4) The railings hereby permitted shall be finished Black prior to their installation and retained as such at all times thereafter.

Reason: In the interests of visual amenity and to comply with the National Planning Policy Framework (2024), Saved Policy H5 of the Knowsley Replacement Unitary Development Plan, adopted, June 2006 and Policies CS2 and CS19 of the Knowsley Local Plan Core Strategy, adopted January 2016.

SCHEDULE 1

Date Received	Ref. No	Version	Drawing/Document Title
06/03/2025	A1/24/059/2/E	-	PROPOSED PLAN AND ELEVATIONS
06/03/2025	A1/24/059/3/B	-	LOCATION PLAN AND EXISTING AND PROPOSED SITE PLANS

Signed Case Officer¹: M Wishart

Signed Authorising Officer²: Jo Sheridan

Date: 03/04/2025

Informatives

None.

¹ I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed

² I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed