

<u>APPLICATION NO:</u>	23/02420/FUL	<u>CASE OFFICER:</u>	Reece Black
<u>WARD:</u>	Shevington	<u>PARISH:</u>	
<u>LOCATION:</u>	76 Yoxall Drive, Tower Hill, Kirkby		
<u>PROPOSAL:</u>	RETROSPECTIVE APPLICATION FOR THE RETENTION OF STEPPED RAILINGS MEASURING 0.9 TO 1.3M IN HEIGHT TO SEPARATE SHARED HARDSTANDING WITH ADJACENT DWELLING		

Site Description

The application site is located at 76 Yoxall Drive, Tower Hill and is located in an area allocated as a Primarily Residential Area in the Development Plan. The application site is a detached dwelling, is brick facing on its front, side and rear elevations, along with white UPVC openings and flat, interlocking roof tiles.

The application property is characterised by an open plan layout and features hardstanding to the side of the dwelling; this is a shared driveway and shared with the adjacent neighbour, No.74. The site features 6 panels of black, stepped metal railings, that divide the shared driveway. The property benefits from a detached garage structure just beyond the driveway.

The application site is on a curve in the highway of Yoxall Drive and the property is South facing. The site is encircled by other residential properties.

Proposal

The application seeks permission for the retention of erected stepped railings, which range between 0.9m to 1.3m in height, that separate the shared hardstanding with the adjacent dwelling.

The set of fencing features 6 panels in total, 4 of which measure at a height of 1.3m and are adjoined the wall of the detached garage, it then steps down to two panels which measure at a height of approximately 0.9m. The fence is sited adjacent to the public highway, with a small amount of separation from the highway.

The existing fence panels are installed to separate the shared driveway. There is no boundary treatment currently to the front of site or as part of the application which would enclose the front boundary of the property.

Consultations

Highway Authority – No objections.

Representations

This application has been publicised by letters sent to 7 neighbours.

There have been 1 letter of objection, 2 letters of support and 0 letters of comment.

The letters of support are summarised as follows:-

- Other properties in the area have erected and installed similar boundary fencing.
- Proposal is not out of character for the area.
- Enough separation left from the railings to the highway to be able to manoeuvre.
- Clearly define property boundaries whilst simultaneously improving the look of them.
- Adds protection to homes.

The letters of objection are summarised as follows:-

- It was in the deeds for the drive to be open plan to allow access to all car doors easily.
- The fence obstructs access on and off the drive, as the drive is sited on a corner that has frequent and fast traffic.
- Fence has already resulted in damage to a car.
- The fence dips towards the end of the drive and therefore, is not visible through the windows when reversing.
- Cannot easily open car doors as a result of the fencing.

Planning History

No relevant recorded planning history.

Under application 03/00103/FUL, select Permitted Development Rights have been removed from the application property. Condition 8 states that:

Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no gates, walls, fence or other means of enclosure shall be erected between the front, side or rear wall of any dwelling and the boundary of any highway adjoining the curtilage of that dwelling or the boundary with any open space (other than walls, fences or other means of enclosure submitted to and approved in accordance with Condition 6 or as shown on Drawing No.EL:220:SK:03A received 31 January 2003) without any further specific planning permission having been sought and obtained beforehand.

Reason: To safeguard the character of this residential development and in the interest of residential amenity and in accordance with Policy H16 of the Knowsley Unitary Development Plan, adopted June 2016.

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.

**KNOWSLEY LOCAL PLAN: CORE STRATEGY
SAVED POLICIES - KNOWSLEY REPLACEMENT UNITARY DEVELOPMENT
PLAN (ADOPTED JUNE 2006)**

CS2 - Development Principles

CS19 - Design Quality and Accessibility in New Development

H5 - Development within Primarily Residential Areas

In addition, the Householder Development SPD (2016) is a material consideration for the purposes of this planning application and provides additional guidance in relation to householder development within Knowsley Borough.

The site is identified as a site allocated for housing development in the adopted Unitary Development Plan. As such, domestic fencing would be considered acceptable in principle within this location, subject to compliance with local planning policy and guidance.

Regarding the adopted Development Plan policies, the proposed application has regard to policies CS2 and CS19 of the adopted Local Plan Core Strategy (2016) and saved policies H5 and H8 of the Unitary Development Plan (2006), together with the Householder Development SPD (2016).

These policies and guidance require that new development demonstrates a high standard of design, which does not adversely affect the character of the property or street scene; maintains a good standard of amenity for all existing and future occupants; avoiding overlooking and overshadowing, as well as an unacceptable overbearing impact; and that adequate parking and garden space would remain for use by residents of the extended property.

Article 35 Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Assessment

Saved Policy H5 in the Replacement Unitary Development Plan states that proposals for development within Primarily Residential Areas will be permitted provided that:

1. The Primarily Residential Areas are indicated on the Proposals Map
2. New development within the Primarily Residential Areas (or proposals for the change of use or redevelopment of existing buildings) which is for uses appropriate to a residential area will be permitted provided that the development (either by itself or in conjunction with other developments) would not:
 - a) Have an unacceptable impact on the amenity occupiers by reason of noise, disturbance, overlooking, visual intrusion, smells, fumes, on-street parking or other causes; or,
 - b) Adversely affect the character or street scene of the area.

The Householder Development SPD states 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. It also states that gates, walls and fences will not normally be permitted on open plan estates.

Furthermore, the SPD stipulates 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.

Design

The existing railings are metal and black in design. They occupy almost the full length of the driveway and finish leaving a slight separation gap from the highway. They are stepped in height, with the first 4 panels closest to the detached garages measuring at a height of 1.3m and the 2 panels adjacent the highway measuring at a height of approximately 0.9m.

The dwelling and the surrounding area are characterised by open plan designs. Despite the open plan layout, 2 other properties have also erected fencing that is of similar design.

The design of the railings allows views through and therefore mitigates any detrimental impact from its design and appearance.

35 Yoxall Drive features railings that adjoin their side extension and then spans the remaining length of the Southern side boundary, forward of the property until it reaches the front boundary line. The fencing then follows the curved curtilage of the front boundary line and then encloses part of the driveway, separating the front garden area. This was approved under 21/00638/FUL. This must hold considerable weight during the determination of this application.

60 Yoxall Drive feature railings along one of the side boundaries. This separates the driveway of the dwelling and the adjacent garage and driveway. This does not appear to have obtained Planning Permission.

The fencing at the properties of 35 and 60 Yoxall Drive are in keeping with the fencing at the application site. All 3 sets of railings in the local area are all of a similar scale, height and are all constructed to a similar appearance, and from similar materials: with visibility through them. These are sufficient at creating defensible space that provide boundary treatment to the properties, without significantly detracting from the character of the area or the open plan principles.

The presence of these railings, and the fact that 60 Yoxall Drive has granted Planning Permission for these must hold considerable weight in the determination of this application.

The proposal would feature an appropriate design. It is in keeping with other boundary treatment erected in the local area and does not appear inconsistent or incongruous with these. It is deemed that the design would be appropriate for the residential area. Given that the proposal is intended to separate the shared driveway, it does not enclose the front curtilage of the dwelling and therefore, would not be considered to significantly detract from the open plan layout that characterises the residential estate. Furthermore, due to the fact that the railings are not visually obstructive and still facilitate a view through them, they would not be considered to significantly impact on highway visibility.

Overall, it is considered that the proposal would be in accord with Saved Policy H5 and the Householder Development SPD. It would be acceptable to permit the railings as they do not fully enclose the property or significantly detract from the open plan principles. They have an acceptable design that does not cause adverse harm to the character of the area and are in harmony with existing boundary treatment found in the street scene.

Residential Amenity

74 Yoxall Drive

No.74 is the adjacent property to the application dwelling. The two gable walls of the properties face one another at an approximate interface distance of 5.5m.

Objections have been received from the occupants of no.74 and have been considered during the determination of this application.

Although it has been laid out in the deeds for the drive to be open plan, this was established that it was to safeguard the open plan design and character of the area, and erected fencing and boundary treatment is not restricted on a premise for easier access to vehicles and car doors.

Not all properties on the estate feature shared driveways with adjacent neighbours and some dwellings have single driveways. In addition, the width of the driveway left accessible by no.74 is within the threshold that the Householder Development SPD stipulates for driveways situated to the side of dwellings, and within this is included the provision of car doors being able to open fully. This is further covered in the Highways section of the report.

On matters concerning Highway safety and visibility, this has been considered by the Highways consultation.

It would not be unreasonable to assume that some of the matters raised in the objection would be more relevant to the Party Wall Act, as it involves issues relating to boundary treatment and development up to / on the party boundary. This would be considered in turn to fall to concerns that would be more of a civil matter.

The existing fencing does not appear to significantly contrast to any of the planning policies it is assessed against and therefore, from a Planning perspective, would not be considered unacceptable.

The fencing would not be considered to result in any significant harm to the residential amenities of any of the surrounding dwellings.

Highways

The fencing has been installed as a means of separating the shared driveway between 74 and 76 Yoxall Drive. The width of the shared driveway as a whole is approximately 5.5m. The fencing has been erected closer toward the gable wall of no.76. There is approximately 2.5m between the gable wall of no.76 and the fencing. In contrast to the separation distance between the gable wall of no.74 and the fencing, which is approximately 3m.

Objections were received that the fencing has resulted in difficulty with opening car doors. As well as issues with visibility (not being able to see the lower stepped railings through the window) and has resulted in damage to a vehicle.

The Householder Development SPD states that car spaces provided at the side of dwellings should have a minimum dimension of 5m x 2.75m (this width is necessary to enable a car to be opened and use satisfactorily). Given that the space left for use by the occupants of no.74, this would be in accord with the Householder Development SPD and provides the minimum standard that is applied to car spaces provided at the side of dwellings. As the dimension requirements meet the minimum standard, it would be considered acceptable from a Highway's perspective.

As stated previously, the design and materials of the fencing do not result in any significant visual obstruction and still allow highway visibility.

These views are supported by the Local Highway Authority, who have raised no objections to the application.

Overall, the existing fence is not considered to cause any significant harm to highway safety and motorists, which has been supported by the Council's Highway Authority, would be in accord with Saved Policy H5 and the Householder Development and would subsequently be considered acceptable.

Permitted Development Rights

It is important to consider also, that had Permitted Development Rights not been removed from the property, a 1m fence, forward of the front elevation, could have been erected without the requirement of any Planning Permission or discussion with neighbours. The existing fence would only be 0.3m in excess of the parameters of Permitted Development Rights. This must also hold considerable weight in the determination of this application.

Conclusion

The proposal would be acceptable in terms of design, residential amenity and highways. The proposal also complies with the relevant Core Strategy, Replacement UDP policies and guidance in the NPPF and is therefore recommended for approval subject to conditions.

Recommendation

That Planning Permission be granted subject to the following condition(s):-

- 1) 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.

SCHEDULE 1

Date Received	Ref. No	Version	Drawing/Document Title
15.09.2023	-	-	LOCATION PLAN
15.09.2023	-	-	SITE PHOTOGRAPHS (1)
23.10.2023	-	-	SITE PHOTOGRAPHS (2)

Signed Case Officer¹: **Reece Black**

Signed Authorising Officer²: **K Foster**

Date: **9 November 2023**

Informatives

Not applicable.

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