



## Appeal Decision

Site visit made on 7 April 2022

by **R Bartlett PGDip URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28<sup>th</sup> April 2022

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**Appeal Ref: APP/P1045/D/22/3290871**

**69 Victoria Hall Gardens, Matlock, DE4 3SQ**

- 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 Michael Allsop against the decision of Derbyshire Dales District Council.
  - The application Ref 21/01135/FUL, dated 10 September 2021, was refused by notice dated 26 November 2021.
  - The development is the installation of 30 linear metres of 1.3 metre high timber fencing on the boundary line.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The fence had already been erected at the time of my visit. This has had no bearing on my decision.

### Main Issue

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

### Reasons

4. Victoria Hall Gardens forms part of a modern housing development, which slopes uphill from Smedley Street East. Dwellings on the estate are typically set back from the footpath behind gardens and parking areas. It appears that the estate was originally open plan and that some front and side garden areas have been enclosed, primarily by planting, over time. Where higher level boundaries exist, these are composed of hedges. Where walls and fences exist to screen rear gardens, these are set well back from the footpath by grass verges and soft landscaping. All of these factors contribute towards the pleasant open and green character of the area.
5. The boundary treatment that has been constructed comprises timber picket style fencing above a horizontal timber plinth. The height is approximately 1.3 metres. The wooden slats, which have rounded tops, are located very close together giving the fence a somewhat solid appearance. The fence is sited hard up to the edge of the footpath leaving no space for planting in front of it to soften its appearance. The planting inside of the fence is not visible through the limited gaps and does nothing to soften its appearance from the street.

6. Whilst I appreciate the Appellant's desire to protect and enclose his property in order to create a larger area of usable garden space and to prevent members of the public and their dogs from using it, there are alternative and more sympathetic ways of achieving this.
7. I acknowledge that a similar fence, not exceeding 1.0 metre high, could potentially be constructed under permitted development rights. However, in the absence of any evidence to confirm that there are no planning conditions removing permitted development rights or requiring the estate to remain open plan, I have given very limited weight to this fallback option. Moreover, reducing the height of the fence would marginally reduce its prominence.
8. The height, nature and expanse of fencing, combined with the topography of the site, the positioning of the fence hard up to the edge of the footpath and the prominent corner position, which I am led to believe was previously open plan, appears stark and incongruous in the street scene and detracts from its prevailing character. Painting the fence or undertaking additional planting inside of the fence line, as suggested by the Appellant, would not in my view be sufficient to overcome the harm.
9. I therefore find that the fencing erected is, in its current form and position, detrimental to the character and appearance of the area. Accordingly, it is contrary to Policies S3(a) and PD1 of the Derbyshire Dales Local Plan (2017), which seek to ensure that all new development is, amongst other things, of high quality design that respects and contributes positively to the area in terms of scale, height, layout, appearance, materials and its relationship to adjacent buildings and landscape features.

### **Conclusion**

10. For the reasons set out above, I conclude that the appeal should be dismissed.

*Rachael Bartlett*

INSPECTOR