



Appeal Decision

Site Visit made on 28 September 2021

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 15th November 2021

Appeal Ref: APP/M2325/D/21/3273324

135 Warton Street, Lytham St Annes, Lancashire FY8 5BH

- 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 John Acton-Reid against the decision of Fylde Borough Council.
 - The application Ref 20/0670, dated 11 September 2020, was refused by notice dated 1 March 2021.
 - The development proposed is described as re-removal of front garden wall to give access to existing flagged garden for parking purposes.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs was made by Mr John Acton-Reid against Fylde Borough Council. That application is the subject of a separate Decision.

Preliminary Matters

3. I have adopted the description of the development from the application form in the banner heading above. Section 8 of the application form states that it would be the creation of off-road parking and it is described in the decision notice as formation of vehicular access with removal of front boundary wall. I have determined the appeal accordingly.
4. In 2008, planning permission was refused and it was upheld on appeal (ref APP/M2325/A/08/2084321) for the formation of off-street parking in the front garden.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

6. The appeal property is a 2 storey mid terrace dwelling with a flagged front garden and a low front boundary wall. It is in a residential area characterised by regularly arranged traditional terraced dwellings finished in brick with ground floor bay windows and slate roofs with repeating decorative gables. Properties are set back from the street behind front gardens, predominantly with mature planting, enclosed by low brick walls. Notwithstanding the nearby

hospital timber boundary fence, the appeal property forms part of a uniform and harmonious residential street scene.

7. The front boundary wall of No 135 makes a positive contribution to the character and appearance of the area. Its removal would erode local distinctiveness and the strong sense of place of the terrace and the townscape. The adverse visual impact would be compounded by the increased visibility of the hardstanding frontage, which contrasts unfavourably with the vegetated front gardens in the street. The parking of a vehicle would dominate the small frontage. In a part of the street where there is no on-street or off-street parking, the proposal would be visually obtrusive and discordant. It would not be sympathetic to local character or the surrounding built environment and it would detract from the overall quality of the area.
8. Therefore, I conclude that the proposal would significantly harm the character and appearance of the appeal property and the area. It would conflict with Policy GD7 of Fylde Council's Local Plan to 2032 Adopted October 2018. This requires, among other things, that development should take account of local character and appearance, relating well to surrounding context, and conserving and enhancing the built and historic environment. It would also conflict with the National Planning Policy Framework including in relation to the creation of high quality, beautiful and sustainable places, which is fundamental to what planning and development should achieve.

Other Considerations

9. My attention has been drawn to properties elsewhere including 55-57 Warton Street which are adjoining properties with front boundary walls removed and hardstanding frontages in use for parking. These had been similarly drawn to the attention of the Inspector in the previous appeal. Far from providing a justification for the proposal, he considered that the adverse visual impact of the paving of the frontages and the absence of boundary walls was clearly something to be avoided. I see no reason to disagree.
10. There are 4 disabled persons, including a wheelchair user, living at the appeal property. The appellant's particular medical conditions limit his mobility. Section 149 of the Equality Act 2010 sets out that disability, defined as a physical or mental impairment that has substantial and long-term adverse effects on a person's ability to carry out normal day-to-day activities, is a relevant protected characteristic for the purposes of the Act. Consequently, it is necessary for me to have regard to the Public Sector Equality Duty (PSED) contained in the Equality Act. This includes having due regard to the need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it, including by taking steps to meet the needs of such persons that are different from the needs of persons who do not share the relevant protected characteristic.
11. While the occupiers of the terraced dwellings in this area park their vehicles on the street, No 135 is on a part of the road subject to waiting restrictions and the appellant is therefore unable to park directly outside his property. There is however unrestricted parking elsewhere in the area, including on the opposite side of the road where I understand the appellant currently parks his vehicles. Nevertheless, given the family's personal circumstances and their reliance on private car journeys, the ability to park close to the property and the certainty that parking would be available would clearly be a benefit.

12. The Council has suggested an alternative solution by way of blue badge holder parking outside of the property in the restricted waiting zone and the creation of a disabled person's parking space on the opposite side of Warton Street. The appellant appears to have discounted this alternative on the basis that it would be unacceptable to the Council rather than because it would not meet his needs. However, it has not been demonstrated that badge holder parking outside the property, which would enable family members to get in or out of a vehicle and which is not dependent on the grant of planning permission, would result in congestion or that it would compromise highway safety.
13. Furthermore, I am not aware that the street is under high parking pressure or that the appellant is currently unable to park close to his property. Therefore, while a disabled person's parking space would not be a personal parking space, there is little to suggest it would not be available for use by the appellant. On the basis of an alternative that would appear to deliver similar benefits, and while I am sympathetic, the appellant's personal circumstances do not therefore outweigh the significant harm that I have found. In reaching this conclusion, and while the PSED did not exist at that time, I am also mindful that the previous Inspector took account of the appellant's personal circumstances in reaching the earlier decision.
14. Following the refusal of the planning application, a certificate of lawfulness (ref 21/0378) for the demolition of the front boundary wall was applied for and it was granted on 16 June 2021. Therefore, the removal of the wall benefits from permitted development rights. However, in the absence of a vehicle crossover, which would not be permitted development and which has not been demonstrated, the front garden could not be used for parking. The fallback position would harm visual amenity, but it does not provide a justification for the harm that would arise from the proposal.

Conclusion

15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications and appeals must be made in accordance with the development plan unless material considerations indicate otherwise.
16. For the reasons set out above, I conclude that the proposal would conflict with the development plan and there are no material considerations, including the lawful development certificate and the appellant's personal circumstances, that would outweigh that conflict.
17. Therefore, I conclude that the appeal should be dismissed.

Sarah Manchester

INSPECTOR