

Application Number:	2012/217	Application Type:	Full
Proposal:	Erection of 2m high fence adjacent to highway (retrospective)	Location:	39 Oaklands Drive, Rawtenstall
Report of:	Planning Unit Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	28 August 2012
Applicant:	Mr P Barker	Determination Expiry Date:	2 July 2012
Agent:	Hartley Planning & Development Associates		

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REASON FOR REPORTING	Tick Box
Outside Officer Scheme of Delegation	<input type="checkbox"/>
Member Call-In Name of Member: Reason for Call-In:	<input type="checkbox"/>
3 or more objections received	<input checked="" type="checkbox"/>
Other (please state):	

HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:-

Article 8

The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

1. RECOMMENDATION

Approval subject to the conditions set out in Section 10 of the Report.

2. APPLICATION SITE

The application relates to a detached house situated on the inside of a bend in Oaklands Drive. Its side garden possesses a number of semi mature trees.

Whilst the area of garden fronting the house is open-plan a timber-boarded fence has recently been erected fronting the side garden. Between the pavement and the fence there is a narrow grassed strip of land with a couple of trees growing within it.

There are houses in the vicinity of similar design/appearance, a number of which have broadly similar fences/enclosures to their front or side gardens. The side garden of the immediately adjacent house (43 Oaklands Drive) is fronted by a 2+m high hedge standing on the back edge of the footway. Prior to erection of the fence the applicants side-garden appears to have been screened from public view by a hedge with a somewhat greater setback from the highway.

3. RELEVANT PLANNING HISTORY

None.

4. THE PROPOSAL

The applicant seeks retrospective permission for the fence which is up to 2m in height and has been constructed in timber with a scalloped edge to the top. Having run along the front of the side garden, a distance of approximately 20m, it then cuts back towards the applicant's house; the latter element of the fence constitutes 'permitted development'.

To support the application, the applicant's Agent has made the following points :

- The occupiers of the dwelling have a young toddler and wish to make the side garden safe for her.
- The road at this point is on a bend and without the fence would not be a safe environment, nor would it be safe for her if the fence was to comply with the height allowed in the General Permitted Development Order (1m).
- The fence is no higher than many of the hedges in the vicinity and which also form borders to gardens fronting the highway.
- Sightlines are unaffected.
- If approved, the fence will be stained a dark brown colour.

5. POLICY CONTEXT

National

National Planning Policy Framework (2012)

Section 7 – Good Design

Development Plan

Regional Spatial Strategy for the Policies NW of England (2008)

Policy DP1 Spatial Principles

Policy RT2 Managing Travel Demand

Policy RT4 Management of the Highway Network

Policy EM1 Environmental Assets.

RBC Adopted Core Strategy DPD (2011)

AVP 4 Rawtenstall Area Vision

Policy 1 General Development Locations & Principles

Policy 8 Transport

Policy 23 Promoting High Quality Designed Spaces

Other Material Considerations

RBC Alterations & Extensions to Residential Properties SPD

6. CONSULTATION RESPONSES

LCC (Highways)

Object to the proposal on the following grounds :

“There is a small tree that has been pruned to about 1 metre in height, once this begins to grow it will be at head height of a child and will pose a safety risk for a pedestrian walking along the highway and due to the proximity of the fence to the mature trees, they are going to grow and distort which will damage the fence and possibly the tree. The narrow grass strip will become overgrown and be impossible to maintain. Regarding visibility I would not object based upon this as the fence does stop approximately 5 metres from the edge of the applicant’s driveway and vehicle volumes and speeds are low.”

7. REPRESENTATIONS

To accord with the General Development Procedure Order one site notice was posted on 16/05/12 and 9 neighbours were consulted by letter on the 14/05/12.

Three letters/emails of objection have been received which make the following summarised comments:

- The fence is unsightly and was erected without consideration for neighbours
- The fence has a negative impact on the street scene
- Approval would set a precedent and the estate should remain open plan

8. ASSESSMENT

The main considerations of the application are: 1) Principle; 2) Visual Amenity; 3) Neighbour Amenity; and 4) Access/Parking.

Principle

The proposal is acceptable in principle as it relates to a property located within a defined Urban Boundary.

Visual Amenity

Neighbours have objected to the proposal on the basis that the fence detracts from the street-scene.

The fence is located in an area where there is a mix of boundary treatments on the street frontage, some front gardens open-plan but other properties having existing fences &/or hedges of broadly similar height to the applicant’s fence. However, by reason of its height and length, the new timber boards with which the fence has been constructed make it of rather bright appearance.

The Applicant has offered to stain the fence brown, resulting in it being less visually prominent, and a condition can be imposed to secure this.

On this basis I do not consider the fence will detract to an unacceptable extent from visual amenity.

Neighbour Amenity

I do not consider that the fence will result in an unacceptable loss of privacy, light of outlook for any neighbours subject to it being stained dark brown..

Access/Parking

The Highway Authority is satisfied that the fence is situated sufficiently far from the drives of the applicant and neighbouring properties not to obstruct driver visibility. However, it has recommended refusal of the application due to a concern that the margin of land between the highway and fence is not maintained to its satisfaction.

Irrespective of whether the retention of the fence had been erected the applicant could have allowed vegetation to grow within this area about which LCC Highways would have had the same concern. Accordingly, I do not consider its concern to warrant refusal of the application, but do consider it appropriate to impose a condition requiring a management plan to prevent neglect of this margin of land detracting from highway safety or visual amenity.

9. SUMMARY REASON FOR APPROVAL

Subject to the conditions, the resulting development is appropriate in principle within the Urban Boundary and would not unduly affect visual and neighbour amenity or highway safety. Therefore, it is considered that the proposed development is in accordance with Policies RT2 / RT4 EM1 of the Regional Spatial Strategy, and Policies 1 / 24 of the Council's adopted Core Strategy and approved Alterations & Extensions to Residential Properties SPD (2008).

10. RECOMMENDATION

Approval subject to the following conditions :

1. Within one month of the date of this permission the fence hereby permitted shall be stained dark brown.
Reason : In the interests of visual amenity, in accordance with Policies 1, 23 & 24 of the RBC Core Strategy DPD (2011).
2. Within one month of the date of this permission, a landscape management plan shall be submitted to and approved in writing by the Local Planning Authority detailing the landscape management and maintenance regime for the strip of land between the highway and fence hereby permitted. The approved scheme shall thereafter be implemented.
Reason : In the interests of visual amenity and highway safety, in accordance with Policies 1,23 & 24 of the RBC Core Strategy (DPD) 2011.