

Appeal Decisions

Site visit made on 19 August 2016

by Mr J P Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 September 2016

Appeal A: APP/P3040/W/15/3139239

10A Moore Close, West Bridgford, Nottinghamshire NG2 5AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Matthew Betts against the decision of Rushcliffe Borough Council.
 - The application Ref 15/01705/FUL, dated 16 July 2015, was refused by notice dated 25 September 2015.
 - The development is a 1.82m fence by 1.21m fence that has been built around the perimeter of the property
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Appeal B: APP/P3040/C/15/3140489

10A Moore Close, West Bridgford, Nottingham NG12 5JY

- The appeal is made under section 174 of the Act as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Matthew Betts against an enforcement notice issued by Rushcliffe Borough Council.
 - The notice was issued on 16 November 2015.
 - The breach of planning control as alleged in the notice is the erection of a fence in the position marked with a red line on Plan 2 attached to the notice.
 - The requirements of the notice are to remove the fence from the land.
 - The period for compliance with the requirements is 56 calendar days.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Act as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended is also to be considered.
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Decisions

Appeal A: APP/P3040/W/15/3139239

1. The appeal is dismissed.

Appeal B: APP/P3040/C/15/3140489

2. The enforcement notice is corrected by the deletion of the post code in paragraph 2 and its replacement with 'NG2 5AY'.
3. Subject to this correction the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act as amended.

Procedural matters

4. Although the description of the works on the planning application is unclear from the details it appears to concern the fencing subject of the notice. On the
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application the fencing is described as being 6ft and 4ft high, and I have converted those measurements into metric.

5. The decision notice for Appeal A referred to the erection of just a 1.82m high fence. However, the Officer Report said the lower fence was also considered as part of that application and this has been confirmed by the Council. I have no arguments before me contending that the lower element did not require the permission of the local planning authority and so I have assessed it as part of these appeals.

The notice

6. The enforcement notice and the planning application give the property different post codes. I have assumed the post code provided by the Appellant to be the correct one and have therefore corrected the notice accordingly.

Main Issue

7. The main issue in this case is the effect of the development on the character and appearance of the area.

Reasons

8. Moore Close is a cul-de-sac comprising 2-storey blocks of maisonettes. The block containing the Appellant's property is one of 4 that stand in a row at right angles to the road. To the rear of the Appellant's block are gardens enclosed by tall fencing. To the front it faces a similar block across a relatively open area of garden space that is crossed by a path network providing access between the maisonettes and the pavement. The other 2 blocks that form this row have a similar relationship to that of the Appellant's block and the one opposite, as they too face each other over an area of gardens divided by paths. In my opinion the 4 blocks in this row stand distinct and separate from the rest of the close as they are the only ones on the south side of this section of the road and no others are arranged in this manner.
9. The Appellant has erected a solid 1.82m high fence along the back of the pavement to a little beyond the mid point of the gable, where it then returns to meet the side wall (the side fence). A 1.21m high fence has also been built at the rear of the path that runs through the open area to the front of his block (the front fence). He has offered to stain this fencing a green colour, and I have assessed these appeals on that basis.
10. Before this development was built, any taller fencing associated with the row would have been behind each of these 4 blocks and would have been no closer to the pavement than the side gables, while the areas to the front of the blocks and the areas between their gables and the pavement would have displayed an openness. This would have given this part of the close a rhythmic and cohesive appearance in which any fencing would have sat comfortably with the buildings and landscaping and would not have been unduly prominent.
11. The side fence now before me conflicts with this pattern in 2 ways. Firstly, it runs along the back of the pavement rather than between the gables. This makes it a far more noticeable element when looking along the road. It also means it is contrary to the softer, more open streetscape and results in a far harsher environment. Secondly it projects beyond the front elevation to enclose to some degree the open landscaped area between the Appellant's

- block and the one it faces. For these reasons I consider it is an unacceptably dominant and discordant feature that relates poorly to the distinctive and pleasing pattern of development created by this row of maisonettes, and I have no reason to consider that staining it would lead me to different findings.
12. In coming to this view it is appreciated that some tall hedging is to the front of the Appellant's block and to the side of the block it faces. Such planting though lies outside planning control and, in any event, its visual impact is softer and less complete than that of this boundary fence.
13. It is also noted that 2m high fencing is at the rear of the pavement on the opposite side of Moore Close. That though is seen very much in a different context to the appeal site as it runs along nearly all that side of the road and is the rear boundary to a mobile home park. As such it cannot be seen to define the character of the section of the cul-de-sac containing the appeal site. There is tall fencing as well at the edge of the pavement by the entrance to Moore Close, but that too is not in a comparable situation to the fencing before as it is not in a built form of a similar arrangement.
14. Finally, the Appellant said the tall side fence was necessary for his family's living conditions. However their privacy is not protected when looking over the lower fence and so this matter has been afforded little weight and does not outweigh the harm identified. Whilst the ground floor maisonette has an enclosed garden that is a consequence of the established layout and does not justify a similar arrangement for the Appellant's unit in light of my concerns. His comments about security have not been demonstrated and the effect of any car headlights on the enjoyment of his garden would not be unreasonable.
15. Neighbours expressed concern about the way the fencing isolated part of the Appellant's land, which had become overgrown and unkempt. That though is primarily a matter of maintenance and so is not a basis to resist this scheme.
16. Turning to the lower fence, that is far less dominant because of its height. However, it is nonetheless sufficiently tall and solid to mean it disrupts the pleasing sense of openness that is experienced between the facing blocks, and so in this regard causes unacceptable harm to the character and appearance of the area.
17. Accordingly I conclude the fencing detracts unacceptably from the character and appearance of the area in conflict with Policy 10 in the *Rushcliffe Borough Local Plan Part 1: Core Strategy*.

Other matters

18. The side fencing is sufficiently distant from adjacent properties to mean it does not affect their outlook, daylight or sunlight unreasonably, while the front fencing is low enough to mean it has no adverse effects on these matters.
19. I accept the side fencing impedes views to and from the road and so has some impact on security, but in my opinion any such impact is not so great as to justify resisting the scheme.

Conclusions

20. For the reasons stated I conclude that planning permission should be refused for the scheme subject of Appeal A, while in relation to Appeal B the

enforcement notice should be upheld and planning permission should be refused for the deemed planning application.

J P Sargent

INSPECTOR