
Appeal Decision

Site visit made on 24 May 2017

by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA

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

Decision date: 20 June 2017

Appeal Ref: APP/M3455/C/16/3163924

Land at 73 Trentham Road, Longton, Stoke-on-Trent, ST3 4EE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Miss Joy Batkin against an enforcement notice issued by Stoke-on-Trent City Council.
 - The enforcement notice was issued on 21 October 2016.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of (close boarded timber) fencing to an existing boundary wall on the Trentham Road and Howard Street elevation and also to the Blantyre Street elevation as well as between the side access door of the main dwelling and the parcel of land to the rear of the main dwelling thus increasing the height of the boundary treatment.
 - The requirements of the notice are:
 1. Remove the timber fencing, situated along the front boundary line, on the Trentham Road and Howard Street elevation. For the avoidance of doubt, photographs A & B attached to this Notice indicate the position of the fencing.
 2. Reduce the height of the boundary treatment along the southern boundary, and adjacent to the Blantyre Street car park, so that no part exceeds 2 metres in height above ground level. For the avoidance of doubt the ground level is to be taken from the land on which the boundary fencing is constructed i.e. within the rear garden of the property at 73 Trentham Road, Stoke-on-Trent, ST3 4EE.
 3. Remove the timber fencing affixed to the brick wall between the side access door of the main dwelling and the parcel of land to the rear of the main dwelling. For the avoidance of doubt, the fencing is identified on Photograph C attached to this Notice.
 - The period for compliance with the requirements is 1 month from the date when this notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Summary of Decision

1. The appeal is dismissed and the enforcement notice is upheld.

The appeal on ground (a) and the deemed application for planning permission

Main issue and reasons

2. The main issue is the effect of the fencing on the host property and the street scene.
 3. No 73 is a large detached 19th century dwelling in a corner plot at the junction of Trentham Road and Howard Street. It is designated as a building of special local interest in an area mainly residential in character, with a parade of shops on the other side of Trentham Road. The National Planning Policy Framework
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- (Framework) states that the effect on the significance of such non-designated heritage assets should be considered in applications for planning permission.
4. No 73 stands out as an attractive, larger and more prominently detached two-storey building in the immediate vicinity. It has a steep pitched roof with finial decoration on the ridgeline, variegated brick detailing, gable and bay roof elements and exterior full height chimney breast. Terraced or semi-detached dwellings nearby have low boundary walls with higher brick pillars and in some cases, hedges or railings above. Properties in the area generally have an open aspect due to low boundary treatments and gates of railings or slatted timber.
 5. The original low front boundary brick wall at No 73 remains in situ and its traditional design enhances the setting of the main dwelling. The appellant emphasises that the new fencing set immediately behind the wall, is not out of proportion with what is a tall house but I am afraid I must disagree. The timber fencing is close-boarded, rises a considerable height above the wall and fully encloses the front forecourt. It is a stark feature that significantly undermines the appearance and setting of the host building, and is out of keeping with the character of the area.
 6. I recognise the potential damage to the front elevation of the property due to the passage of heavy vehicles on Trentham Road, however other properties in the area are subject to similar stresses from traffic close-by.
 7. The need to protect vulnerable occupants in a safe environment is a relevant consideration. However the wall provides some security and there is no objective evidence that convinces me such needs might not be met by adopting normal security measures within the accommodation itself to prevent escape by children or animals.
 8. The fencing to the front and side of the property is also intended to protect the occupants from anti-social behaviour which has been experienced in the past. I have sympathy for such genuine concerns. Nonetheless the front and side of the premises are well overlooked and the wall is a clear deterrent to trespass.
 9. Paragraph 58 of the National Planning Policy Framework (Framework) states that planning policies and decisions should aim to ensure that developments create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion. It also states that they should establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
 10. The fencing that surrounds the property creates a somewhat intimidating effect in the immediate environment. Such poor physical layouts in urban areas do not assist in creating safe and comfortable places to live. On balance I consider that in the absence of strong objective evidence to substantiate the concerns of the appellant, I should not give such concerns overriding weight when balancing them against the environmental harm caused by the fencing.
 11. Turning to the boundary of the property adjacent to the Blantyre Street car park, my impression on site was that the area was not so well overlooked as the Council suggests and is also relatively remote from the general activity on Trentham Road and Howard Street. I can appreciate concerns that it may act as a focus for people to congregate and engage in anti-social behaviour.

12. That said, the excessive height of the fencing lessens the attractiveness of the place and considerably weakens its overall appearance. Due to the difference in levels of the land, reducing the fencing to 2m high above ground level, but from within the rear garden of the property as is required by the notice, will result in the fence appearing relatively higher from the car park side. In my view that will provide a reasonable degree of deterrence.

Other matters

13. That no other neighbours have objected to the fencing is not a positive argument in favour of the appeal. The cost involved in acquiring and erecting the fencing is noted. However the development was undertaken before planning permission was obtained and as such would have been at the appellant's own risk. I therefore give this factor very limited weight.

Conclusion on ground (a)

14. I conclude that the increased height of the boundary treatment and fencing has caused harm to the character and appearance of the locally listed building by reason of its overly prominent, incongruous and unapproachable appearance in the street scene.
15. The harm is substantial and contrary to Strategic Aim 14 and Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy (2006-2026), and Policies HE1 and HE5 of the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (2010). These policies seek among other matters, development of high quality that protects the historic heritage and local character by ensuring it is appropriate in scale and local context. In addition it is not supported by the Framework's aim to secure high quality design in all development.
16. The appeal on ground (a) must therefore fail.

Overall Conclusion

17. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the notice and refuse to grant planning permission on the deemed application.

Formal Decision

18. The appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under s177(5) of the 1990 Act as amended.

Grahame Kean

INSPECTOR