

Appeal Decision

Site visit made on 9 August 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: 04 September 2017

Appeal Ref: APP/A1910/C/17/3171664

Land at Cranbrook, 22 Newell Road, Hemel Hempstead, Herts HP3 9PD

- 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 Mrs Laura Beadon against an enforcement notice issued by Dacorum Borough Council.
 - The notice was issued on 8 March 2017.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of boundary fencing adjacent to a footpath and more than 1m in height, shown dotted in the approximate position in the attached plan.
 - The requirement of the notice is EITHER remove the fencing from the site; OR lower the fencing to no more than 1m in height.
 - The period for compliance with the requirement is two months from the date the 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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Formal Decision

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

Ground (a) and the deemed application for planning permission

Background and main issues

2. Cranbrook is a detached two-storey house on the corner of Newell Road and Royal Court in an urban residential area of the town of Hemel Hempstead. The plot includes a double garage to the right hand side of the frontage with an access onto Newell Road. The access is in close proximity to the junction with Royal Court and there is a second driveway onto Newell Road within the plot and adjacent to the neighbouring property.
 3. The new close-boarded fencing which is the subject of the notice is about 1.8m high. It has been erected along the site frontage in two sections. The first section is about 4m wide, above a low wall, and situated between the two drives facing Newell Road. The second is some 8m wide and bends around the junction, stepping up to follow the slope upwards from Royal Court.
 4. The fencing was refused planning permission under Ref 4/02139/16/FHA for reasons similar to the main issues in this enforcement appeal which are:
 - a. The effect of the fencing on the character and appearance of the area; and
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- b. The effect of the fencing on the safety of pedestrians, cyclists and drivers using Newell Road and Royal Court.

Character and appearance

5. Front boundary treatments in the locality are low and often soft-landscaped. Where close-boarded fencing is found nearby it is generally used in the treatment of side or rear boundaries.
6. I saw that the prominent location of the appeal site makes the height and solid construction of the fencing appear as an incongruous and unacceptably prominent feature within the street scene. It also detracts from the setting of the host dwelling compared with the pre-existing low level fencing, as shown in the photograph supplied.
7. If, as suggested, the fence were painted green or foliage added to it, whilst this might alleviate its stark appearance to an extent, in my opinion it would not overcome the imposing and prominent negative characteristics of the fencing, in terms of its excessive scale and overall height in relation to the street scene.
8. Other examples submitted of close-boarded fencing have been considered. However I do not find them to be a compelling reason to allow unattractive development elsewhere in the street. I have judged the fencing on its own merits and with regard to the particular visual context in which it is found.
9. I conclude on this issue that the fencing is poorly designed by reason of its unduly excessive height and scale. As such it causes significant harm by undermining the character and appearance of the host dwelling and street scene. The harm is contrary to Policies CS11 and CS12 of the Dacorum Core Strategy 2013 (CS) which aim among other matters to secure that development respects adjoining properties in terms of scale and height as well as respecting the character of the streetscape.

Highway safety

10. The local highway authority objects to the fencing on the grounds that it reduces forward visibility for drivers emerging from Royal Court onto Newell Road as well as from Newell Road in respect of vehicles exiting from Royal Court. It is also concerned that the fencing restricts inter-visibility between drivers exiting No 22 and vehicles and pedestrians on Newell Road and Royal Court.
11. As a statutory consultee I give considerable weight to the views of the local highway authority. A departure from those views would require compelling reasons. Reliance is placed on the standards contained with Manual for Streets (MfS), using Table 7.1, however no visibility splays for vehicles and pedestrians are supplied to illustrate how the standards may or may not have been breached. I have not been made aware of a specific policy or guidance to the effect that it is the appellant who must provide such evidence.
12. Newell Road is subject to a 30mph speed limit whilst traffic movements and speeds are low. The authority assumes a speed of 20 mph for vehicles emerging from Royal Court. However until the vehicle reaches the non-critical side of Newell Road it will be turning and not travelling directly onto oncoming traffic. It is not adequately explained why it is appropriate to combine the two

speeds of 30mph and 20mph and I therefore treat with some caution the derived stopping sight distance of 62m.

13. There is a give way line, albeit indistinct at the junction and drivers from Royal Court, which is the minor road, would clearly be expected to take care before emerging onto Newell Road. I saw that the threshold of entry on Newell Road is appreciably beyond the line of the boundary fence such that the distance between the driver and the front of the vehicle is not likely to cause problems for drivers taking normal precautions at a junction of this type. From all that I have seen and read, I am not persuaded that traffic going downhill on Newell Road could not adequately see vehicles coming from Royal Court or vice versa.
14. The appellant has acted responsibly in attempting to improve visibility by erecting small curved mirrors at varying heights on the right-hand side drive. However they do not provide the same level of visibility as would direct vision at a level natural to the highway user. Accordingly they provide a limited improvement to visibility, which in my view has been severely compromised by the fencing, for drivers emerging from the appeal site, as well as for drivers, cyclists and pedestrians on Newell Road approaching the crossovers.
15. Pedestrians in particular may be vulnerable when proceeding along this side of the footway, including from around the corner of Royal Court. Although the pavement takes up from the grass verge at this corner, it is not difficult to contemplate children on foot or bicycles coming at pace around this bend or from the opposite direction, without heed to the entrances to the appeal site.
16. Overall therefore, the fencing at this location in my view presents a substantial hazard to road users in terms of inter-visibility between users of the accesses and of the highway, not adequately mitigated by the provision of mirrors. It follows that I am not satisfied that the development complies with CS Policy CS8 in that it fails to improve road safety or to create safer footpath and cycle networks. It would also conflict with CS Policy CS12 in that it fails to provide a safe and satisfactory means of access for all users of the highway network.

Other matters

17. The appellant desires privacy in the use of the ground floor front bedroom and it is chiefly for this reason that the fencing has been erected. I sympathise with the need to ensure that there is no undue overlooking into the property from passers-by, but given the concerns raised in the main issues, the unauthorised fencing is not a proportionate response to such needs. In addition there is no good reason put forward as to why other measures might not avoid the need for the fencing, such as the use of screens within the room concerned, or a rearrangement of the internal layout of the dwelling.
18. I have considerable sympathy with the past experiences of the appellant and her family and accept that the fencing gives them a general sense of security. However such a benefit is counterbalanced to an extent by a degree of loss of natural surveillance of the house from within the street. The requirements of the notice do enable the fence to be retained, although reduced in height.
19. The privacy or security issues raised do not, taken individually or together, suffice in my view to overcome the key conflicts with the development plan described above.

Overall Conclusion

20. For the reasons given above and considering all other matters raised, I conclude that the appeal does not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decision

21. 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