
Appeal Decision

Site visit made on 20 March 2018

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

an Inspector appointed by the Secretary of State

Decision date: 19 April 2018

Appeal Ref: APP/N4205/C/17/3179453
Land Adjacent to 58 France Street, Bolton

- 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 Mr Daniel Kings against an enforcement notice issued by Bolton Metropolitan Borough Council.
- The enforcement notice was issued on 7 June 2017.
- The breach of planning control as alleged in the notice is: without planning permission, the erection of a timber fence together with brick pillars and gates at the front and side of the property.
- The requirements of the notice are: (i) permanently demolish the timber fence, brick pillars and gates from the front and side of the property; and (ii) permanently remove from the site all materials resulting from compliance with step (i) above.
- The period for compliance with the requirements is 30 days.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections.

The enforcement notice

1. I saw from my site visit that a timber panel fence, with front entrance gates and pillars, has been erected to enclose the front garden.
2. The allegation refers to the timber fence together with brick pillars and gates at the front and side of the property. It is apparent to me that the notice is directed at the side fence along the western boundary and not the side fence along the shared boundary with No 58. Furthermore, it is clear that the appellant understands which fence is targeted. However, for clarity's sake, the allegation should be corrected. I am satisfied that I can correct the enforcement notice to specify the side (western boundary) fence without causing injustice to the appellant or the local planning authority¹.

The Appeal on Ground (a) and the Deemed Planning Application

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area.

¹ S176(1) of the Town and Country Planning Act 1990 as amended.

Character and Appearance

4. The appeal property is a detached house, which has been built pursuant to planning permission granted in 2015 (Refs 94720/15 and 00328/17). Entrance gates and brick pillars, with ornamental lions, and timber panel fencing has been erected to enclose the front garden. The Council states that the approved plans (Drawing No 616/FSD/PL1 Rev B dated Feb 2017) did not show the front boundary treatment.
5. The property is situated within a residential area. The houses are set back from the road and have relatively spacious front gardens. This part of France Street is characterised by open plan development with little or no front boundary fencing or walls.
6. The brick pillars, gates and front fence are visually prominent in the street scene due to their height, location and the ornamentation on each of the pillars. The pillars are visible in medium range views from the east and west due to the slight bend in the road and their position at the edge of the pavement. The side timber fence alongside the adjacent access road is less obtrusive but is still an incongruous feature within this area of predominantly open plan development. The enclosure of the garden does not reflect the character of the wider area and has a harmful visual impact.
7. I acknowledge that there is a similar panel fence between the appeal property and No 58 and between Nos 56 and 58. The side boundary fences are not a common feature in the immediate locality, but their impact is limited due to their siting. In contrast, the side boundary fence between the appeal property and the access road is more prominent because the house is significantly further forward than the neighbouring house to the west. As a result, the side boundary fence is more visible in the wider area.
8. During my site visit I saw the low brick wall, pillars and garden enclosures at the front of Nos 32-40 France Street. This part of the road has a distinctly different character. The houses have a common building line and the front walls appear as an integral part of the street scene. The appeal property is within an area of open plan layout, which has a spacious character and appearance. I also looked at No 1 West Grove, which has a front and side boundary fence. However, the majority of the houses along West Grove have front boundary fences or walls and the fence in that location is not out of character.
9. To conclude on this matter, and having had regard to all matters raised, I find that the development has a harmful impact on the character and appearance of the area, contrary to Policy CG3 of Bolton's Core Strategy (adopted March 2011), which seeks to promote good urban design and ensure development is compatible with the surrounding area. Therefore, the appeal on ground (a) and the application for deemed planning permission fail.

Conclusion

10. I intend to correct the enforcement notice in respect of the allegation, in order to clarify which part of the development the notice is directed at.
11. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decision

12. It is directed that the enforcement notice be corrected by:

- 1) the insertion of the word "western" in front of "...side of the property" in paragraph 3 of the notice; and
- 2) by the insertion of the word "western" in front of "...side of the property" in paragraph 5(i) of the notice.

13. Subject to these corrections, 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 1990 Act as amended.

Debbie Moore

Inspector