



Appeal Decisions

Site visit made on 23 July 2019

by Stephen Brown MA(Cantab) DipArch RIBA

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

Decision date: 02 September 2019

Appeals A & B: refs. APP/K2610/C/18/3210073 & 3210074 17 Fiennes Road, Norwich NR7 0YP

- 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 Ian Roberts (Appeal A: 3210073) and Susan Roberts (Appeal B: 3210074) against an enforcement notice issued by Broadland District Council.
 - The enforcement notice, ref. 2018ENF118, was issued on 30 July 2018.
 - The breach of planning control alleged in the notice is the erection of an unauthorised fence to the front of the property contrary to what is permitted within Part 2 Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The requirement of the notice is to:
Remove the unauthorised fence.
 - The period for compliance with the requirements is 1 month.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. This case is exempt from the prescribed fees, so the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended fall to be considered.
 - Appeal B is not exempt from the prescribed fees, which have not been paid within the specified period, and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed. This appeal is proceeding on ground (g) as set out in section 174(2) of the Town and Country Planning Act 1990 as amended. This case
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Appeal C: ref. APP/K2610/W/18/3210072 17 Fiennes Road, Norwich NR7 0YP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ian Roberts against the decision of Broadland District Council.
 - The application ref. 20180937, dated 4 June 2018, was refused by notice dated 30 July 2018.
 - The application was for the retention of a boundary wall and fencing as built.
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Decisions

Appeal A: ref. APP/K2610/C/18/3210073

1. The appeal is allowed on ground (g), and it is directed that the enforcement notice be varied by:
DELETION of *one month*; and,
SUBSTITUTION of *four months* as the period for compliance.

Subject to this variation the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B: ref. APP/K2610/C/18/3210074

2. The appeal is allowed on ground (g), and it is directed that the enforcement notice be varied by:

DELETION of *one month*; and,

SUBSTITUTION of *four months* as the period for compliance.

Subject to this variation the enforcement notice is upheld.

Appeal C: ref. APP/K2610/W/18/3210072

3. The appeal is dismissed.

Background matters

4. The appeal property is a detached two-storey house, built in the 1990s within a relatively large estate of broadly similar houses. It stands on a south-western corner, where Fiennes Road turns to form a short cul-de-sac. There is a double garage to the front of the house – that is, the southern face – attached to the main body of the building with a linking section.
5. In 2017 planning permission was granted for relocation of the existing boundary wall and construction of a side extension to the kitchen on the western side of the house¹. Later that year a revised proposal was approved². The revised proposal related only to the extension, and the boundary wall proposals remained the same. The approved proposal for the wall was to demolish the then existing western boundary wall and build a new boundary wall some 2.2 metres to the west of it. I understand this would have entailed removal of a grass verge, shrubs and small trees adjacent to the footpath. It was proposed that the new boundary wall should be set 0.3 of a metre back from the edge of the footpath.
6. The wall itself was to run from the north-western corner of the double garage, curve around the corner of the site, extend along the western boundary, curve around the north-western corner of the back garden, and abut the garage of the neighbouring property. It would have been 1.8 metres high reducing to 1.5 metres past the proposed extension. The wall was to have been built in individual overlapping panels, each about 2.3 metres wide, and set back by 300mm from the back of the footpath.
7. As built, there is a curved section of brick wall from the garage towards the southern end of the new extension, where there are brick piers and a gate. Beyond the gate is a timber fence on concrete posts, and towards the northern end is a further section of brick wall curving around to abut the neighbour's garage. The entire construction is at a uniform height, and it is built right up to the back of the footpath, with no 300mm set-back.
8. The Council instituted enforcement action in May 2018 when it became apparent that the boundary treatment was not being built as approved in terms of height, design and materials.

¹ Decision notice ref. 20170334, dated 24 April 2017.

² Decision notice ref. 20171290, dated 18 September 2017.

9. I note that the allegation that the fence does not benefit from allowances permitted under Part 2 Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 is not disputed.

Appeal A on ground (a), the deemed planning application and Appeal C

10. Ground (a) is that planning permission should be granted for the matters stated in the notice. Since the planning appeal is against refusal of permission for the identical development, the considerations in that appeal are the same, and I have treated both cases together.
11. From my inspection of the site, and all that I have read I consider the main issue in Appeals A and C to be the effect of the development on the street scene in the vicinity of the appeal site.
12. The estate is developed predominantly with detached houses with garages, laid out on relatively spacious plots. Many have open frontages with lawns and shrubs. Constructional materials are limited and consistent – buff and red brick walls, tiled roofs and white windows and doors. The boundary and other enclosing walls that I saw are in the same buff and red brickwork. The sections of wall forming part of the boundary treatment are built of red brick above a buff brick plinth at the house end, and *vice versa* at the other end.
13. The Council object that the timber fence with concrete posts introduces alien materials to the area, and indeed I did not see any other such examples in Fiennes Road. On the other hand I saw instances in the road of flank boundary walls built to very much the pattern indicated in the 2017 approved scheme, with overlapping brick panels set back a short distance from the back edge of the footpath. In my opinion the timber fence with concrete posts and concrete gravel boards has a utilitarian appearance that is alien and incongruous given the high degree of consistency in terms of materials and details of boundary walls throughout this part of the estate.
14. Furthermore, in the context of the largely open frontages with lawns, shrubs and trees, the height of the fencing along some 16 metres of the boundary, enclosing much of the appeal site, has an oppressive effect. While the lack of the 300mm set-back from the footpath may not be crucial, the more-or-less uniform height over such a distance gives a somewhat fortress-like appearance to the structure as a whole.
15. The appellant says that the timber fence tends to soften the look of the boundary, and that this was discussed with the Council in March 2017. However, I understand that discussion was about the use of 'brick piers or posts with wooden panels', and in the context of a wall/fence much of which would be lower than that now built. I do not consider that discussion justifies retention of the unauthorised development, which is of a significantly different nature in terms of the form of construction and height.
16. As for other instances of fenced boundaries in the general neighbourhood, I saw that several of these are on roads of a quite different character from Fiennes Road, and where there is not such consistency of materials and boundary treatments. I also note that there are a considerable number of examples where fences have become immune from enforcement action as a result of the passage of time.

17. I conclude on the main issue in Appeals A and C that the development causes significant harm to the street scene in the vicinity of the appeal site. The development does not accord with provisions of the development plan, particularly with regard to Policy 2 of the Council's Joint Core Strategy³, and Policy GC4 of their Development Management Development Plan Document 2015⁴, which seek to promote high standards of design and include aims to respect local distinctiveness and to pay adequate regard to the character and appearance of an area.

Appeals A and B on ground (g)

18. The appellant argues that the compliance period of one month is inadequate and that 6 months should be allowed in order to obtain quotes, instruct a contractor and execute works.
19. I note that the only requirement of the notice is to remove the unauthorised fence. For that purpose I consider that one month would be adequate. However, I appreciate the appellant will probably want to replace the fence in order to maintain security and privacy and will need time to make arrangements for whatever replacement he proposes. Rather than requiring removal within one month, with the possibility that temporary fencing might be put up subsequently, I consider a longer period should be allowed so that the new boundary treatment could be constructed as soon as the present fence is removed. I consider a period of 4 months would give time to obtain quotations, appoint a contractor and carry out the works.
20. Should there be some cause for delay in this process, under s.173A(1)(b) of the Act it is open for the Council to relax a requirement of the notice, and in particular they may extend the compliance period. Provided the appellant can demonstrate good reasons for such delay, I do not see why an extension should not be granted if appropriate. The appeals succeed on ground (g), and I shall vary the notice accordingly.

Conclusions

21. For the reasons given above, and having regard to all other matters raised, I conclude that Appeal A fails on ground (a) and I shall refuse planning permission on the deemed application and uphold the notice. Appeals A and B succeed to the limited extent on ground (g), a reasonable period for compliance would be 4 months, and I am varying the enforcement notice accordingly, prior to upholding it. I also conclude that Appeal C should be dismissed.

Stephen Brown

INSPECTOR

³ The Greater Norwich Development Partnership Joint Core Strategy for Broadland, Norwich and South Norfolk, adopted March 2011, with amendments adopted in January 2014.

⁴ The Broadland District Council Development Management Development Plan Document 2015.