



Appeal Decision

Site visit made on 10 December 2019

by Rajeevan Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2020

**Appeal Ref: APP/H1515/C/19/3224731 & 3224733
229 Brentwood Road, Herongate, Essex CM13 3PL**

- 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 Raymond Kingsley and Mrs Sharon Kingsley against an enforcement notice issued by Brentwood Borough Council.
- The enforcement notice was issued on 21 February 2019.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised operational development consisting of the construction of a front boundary wall with associated brick pillars and also wooden effect entrance gates and fencing, in excess of 1.0-metre-high adjacent to the highway i.e. Brentwood Road, and also the unauthorised creation of a second crossover/means of access to the highway (Brentwood Road) shown for the purposes of identification only in the approximate position shaded blue on the attached site plan, with associated hardstanding shown for the purposes of identification only in the approximate position shaded green on the attached site plan, on Land at 229 Brentwood Road, Herongate, Essex, CM13 3PL (shown for the purposes of identification only on the attached plan and edged in red).
- The requirements of the notice are:
 - (a) Permanently remove the unauthorised front boundary wall, associated brick pillars, the wooden-effect entrance gates and fencing adjacent to the highway.
 - OR, as an alternative remedy to (a) above
 - (b) Reduce to 1.0 metre in height or less the front boundary wall, associated brick pillars, the wooden-effect entrance gates and fencing in excess of 1.0- metre-high adjacent to the highway.
 - (c) Permanently close the second crossover/means of access to the highway (Brentwood Road) shown for the purposes of identification only in the approximate position shaded blue on the attached site plan.
 - (d) Take up the area of hardstanding, shown for the purposes of identification only in the approximate position shaded green on the attached site plan, which has been laid to facilitate the second crossover/means of access.
 - (e) Reinstate the surface of the land shown in (d) above, when cleared, to its previous profile and to a condition appropriate to its pre-existing use before the laying of the hardstanding to facilitate the second crossover/means of access.
- The period for compliance with the requirements is six months for (a), (b), (c) and (d) listed above and seven months for (e).
- The appeals are proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. It is directed that the enforcement notice is:

- corrected by deleting the allegation within section 3 of the enforcement notice (the matters which appear to constitute the breach of planning control) and its replacement with “the construction of a front boundary wall with associated brick pillars and wooden effect entrance gates and fencing, creation of a second crossover/means of access to the highway in the approximate position shaded blue on the attached site plan and hardstanding in the approximate position shaded green on the attached site plan”.

Subject to the correction, the appeals are allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the construction of a front boundary wall with associated brick pillars and wooden effect entrance gates and fencing, creation of a second crossover/means of access to the highway in the approximate position shaded blue on the attached site plan and hardstanding in the approximate position shaded green on the attached site plan at 229 Brentwood Road, Herongate, Essex CM13 3PL referred to in the notice.

Preliminary Matter

2. The allegation in the Enforcement Notice is worded in a complicated manner. This makes it difficult to follow and determine what the act or acts of development subject to the allegation are, or the terms of the deemed planning application and appeal on ground (a). However, the appellants appear to have understood the allegation and, in my opinion, the misdescription does not render the notice completely unclear. It is necessary however to correct the allegation to remove unnecessary words but retaining the effect of what the Council is trying to achieve. This would not cause injustice and I can therefore use my powers under the provisions of s176(1)(a) to achieve this correction.

Ground (a) appeal and the Deemed Planning Application

Main Issues

3. The main issues are the effect of the development on:
 - the character and appearance of the area; and
 - highway safety.

Character and appearance

4. The appeal site lies immediately outside the boundary of the Herongate Conservation Area (HCA), which is adjacent to the site, to the front of the property. The National Planning Policy Framework, 2019 (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 194 of the Framework states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. The Framework defines the setting of a heritage asset in terms of the surroundings in which it is experienced.
5. The unauthorised front boundary wall with associated brick pillars and wooden effect entrance gates and fencing has been added to the front of the dwelling.

The appeal site is in a residential area which has a village feel with residential properties located behind landscaped gardens and parking areas. The appeal property has recently been substantially added to with a two storey side, front and rear extensions, a front dormer window and garage¹.

6. The HCA Appraisal and Management Plan (HCAAMP) explains that Herongate is a village which has grown up along the edge of Ingrave Common. The surviving areas of greensward and open space separate it from the busy A128 road (Brentwood Road) and allow it to retain a coherent identity, whilst the tightly knit groups of older buildings, the public houses, the pond and the church provide the essential character of a traditional village. The HCAAMP also highlights that boundary treatments can make a significant impact on the appearance of their surroundings. Low brick walls with planting behind them, picket fences and hedges are the boundaries most typical of the HCA. During my site visit I also observed that there was a variety of heights and styles of boundary treatments in the vicinity of the site, and that similar height boundary treatments exist on neighbouring properties on Brentwood Road.
7. The brick wall has been constructed in matching materials to the host building. Whilst the wooden effect entrance gates and fencing has been erected in excess of 1m², it has been painted white in order to mimic the appearance of a picket style fence since elsewhere within the area. Furthermore, the wall and fence set behind evergreen planting further softens the impact of the development. Given the overall size of the recently extended property, the front boundary walls, fences and gates do not look disproportionate in terms of its size, height, scale or appearance. Furthermore, the boundary treatment, with matching brick materials and soft landscaping, is not out of keep with boundary treatments seen elsewhere in the locality. In this respect the development does not dominate the overall appearance of the property or the character of the area.
8. In addition, a large of number of properties in the street benefit from vehicular crossovers. Given the relatively wide street frontage of the property, the creation of the additional crossover and hard standing is also not out of keeping with the streetscene.
9. The Council have also referred to policy C7 of the Brentwood Replacement Local Plan, 2005 (LP), which states that development that would damage, destroy or threaten the future survival of trees protected by a tree preservation order, or trees within an area identified as ancient woodland or in a conservation area will not be permitted unless the removal of the tree would be in the interests of good arboricultural/silvicultural practice or the development clearly outweighs the amenity and/or nature conservation value of the tree. However, no specific details have been provided regarding the loss of trees. In the absence of any substantive evidence to the contrary, I conclude that the development does not conflict with Policy C7 of the LP.
10. Overall, the development adequately respects the context and character of the area, as well as preserving the setting of the HCA. The appeal site also lies adjacent to the Thorndon Park Conservation Area (TPCA), immediately to the rear of the site. However, given that the unauthorised works are all located to

¹ Approved in planning application ref: DC16/00159/FUL, dated 18 April 2016.

² The height permitted under the General Permitted Development Order, 2015.

the front of the property and are separated from the TPCA by the appeal property itself, the development preserves the setting of the TPCA.

11. I therefore conclude that the front boundary wall with associated brick pillars and wooden effect entrance gates and fencing, creation of a second crossover/means of access to the highway and hardstanding does not have a harmful impact upon the character and appearance of the area. In this respect the development complies with Policies CP1, C5 and C14 of the LP, which amongst other things, requires the provision of landscaping in all new development, and that developments will only be permitted only where the proposals preserve or enhance the townscape character of the area. The development would also comply with the design and conservation policies of the Framework.

Highway safety

12. With regards to the additional crossover created, the Council and third parties are also concerned regarding the safety of road users from vehicles entering and exiting the newly created access. Brentwood Road is a busy road with a regular flow of traffic in both directions and is subject to a 30mph speed limit outside of the appeal site access. Further along Brentwood Road, when driving out of the village of Herongate, the speed limit increases to 50mph.
13. The vehicular entrance gates have been designed to be set back from the footway edge to allow vehicles to safely enter and exit the site, without causing an obstruction to the to free flow of traffic on the highway or harmful to pedestrian safety. Furthermore, this section of Brentwood Road is relatively straight, with clear sightlines of oncoming vehicles clearly visible in both directions outside the appeal site.
14. Therefore, I conclude that the front boundary wall with associated brick pillars and wooden effect entrance gates and fencing, creation of a second crossover/means of access to the highway and hardstanding does not have a harmful effect on highway safety. In this respect the development complies with policy CP1 of the LP, which requires all new development to have satisfactory means of access to the site for vehicles and pedestrians.

Other Matters

15. Comments made by third parties have been taken into account but do not alter the conclusions reached in this decision. Reference has been made to the installation of external lighting and damage caused to neighbouring land during the construction of the recently extended property. However, these matters do not feature within the enforcement notice and therefore are not a matter for me to consider as part of this current appeal.
16. No conditions have been suggested by the Council and as the development appears to be completed, there is no need for any.

Conclusion

17. For the reasons given above I conclude that the appeals succeed on ground (a). I shall grant planning permission for the development described in the

enforcement notice as corrected. The appeals on ground (f) do not therefore fall to be considered.

R Satheesan

INSPECTOR