



Appeal Decisions

Site visit made on 27 January 2020

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2020

Appeal A Ref: APP/W1715/C/19/3236221

Appeal B Ref: APP/W1715/C/19/3236222

20 Corinthian Road, Eastleigh, Hampshire SO53 2AZ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- Appeal A is made by Mrs Jessica Smart and Appeal B is made by Mr James Smart against an enforcement notice issued by Eastleigh Borough Council.
- The enforcement notice, numbered ENF/2019/279, was issued on 27 August 2019.
- The breach of planning control as alleged in the notice is the erection of a fence in excess of 1 metre above ground level and adjacent to the highway.
- The requirements of the notice are:
 - (i) Remove from the land the unauthorised fence as marked on the plan in blue between the points marked A and B on the attached plan, or
 - (ii) Reduce the height of the unauthorised fencing so that it does not exceed the height of one metre from ground level between the points marked A and B on the attached plan.
- The period for compliance with the requirements is 3 months.
- Appeal A is proceeding on the grounds set out in section 174(2) (a) 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.
- Since the prescribed fees have not been paid for Appeal B within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act has lapsed.

Summary decision: Appeal A is dismissed and the enforcement notice is upheld in the terms set out below in the Formal Decision.

Appeal C Ref: APP/W1715/W/19/3235220

20 Corinthian Road, Eastleigh, Hampshire SO53 2AZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- Appeal B is made by Mrs Jessica Smart against the decision of Eastleigh Borough Council.
- The application Ref H/19/85781, dated 4 June 2019, was refused by notice dated 25 July 2019.
- The development proposed is for the retention of a garden fence.

Summary decision: The appeal is dismissed.

Decisions

Appeal A

1. The appeal is dismissed, 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 C

2. The appeal is dismissed.

Background and main issue

3. As set out above there were originally three appeals on this site although Appeal B is not proceeding for the reasons given above. Planning permission was sought for the retention of the garden fence, as built on 4 June 2019. This application was refused on 25 July 2019. Appeal C was lodged against this decision by Mrs Jessica Smart. The enforcement notice was then issued on 27 August 2019. The s74 appeals against the notice on ground (a) were lodged. Appeal A proceeds in the name of Mrs Jessica Smart.
4. I note that the plans that accompanied the planning application, relate to a slightly longer length of fence than that targeted by the enforcement notice. Nonetheless, the requirements of the enforcement notice indicate that the Council are primarily concerned about the fence that lies adjacent to the highway, rather than the section that runs along the northern boundary and around the existing tree. The s74 and s78 appeals are thus not identical. I have therefore considered each proposal on its individual merits. However, to avoid duplication I have dealt with the schemes together, except where otherwise indicated.
5. I have had regard to the Council's reasons for refusing the application and their reasons for issuing the notice. Accordingly, I consider that the main issue is the effect of the development on the character and appearance of the area.

Reasons

6. The site is a two storey dwelling on the junction with Corinthian Road and Augustus Way, in a primarily residential area. The dwellings are mainly detached and semi-detached with some variation in design. They are mostly set within modest landscaped front gardens, with generally low boundary walls. The width of the road and the layout of the dwellings give the area an open spacious character and the appeal property is consistent with that character.
7. The fence is sited along the western, side boundary of the rear garden, before turning at right angles to exclude an existing tree from the rear garden. It is of timber construction on concrete posts, being stepped slightly to follow the slight incline of the road. It is clearly visible when travelling down Augustus Way towards Corinthian Road. The above tree on the north west corner of the site, does little to screen this view, due to the proximity of the fence to the highway. From Corinthian Road there are clear views of the length of the fence, in particular when travelling south east.

8. The height and scale of the fence has an enclosing effect, which is in stark contrast with the original boundary treatment and open nature of other properties. The loss of the original space results in development that is incongruous when viewed in the context of this corner plot and other boundary treatments in the area. Moreover, this lack of space to the highway allows little scope for any planting or screening to soften its harsh appearance.
9. The notice seeks to remedy the breach of planning control by either removing the fence or reducing it in height so as not to exceed 1 metre in height. This latter step means that it would comply with the Town and Country Planning (General Permitted Development) (England) Order 2015, which grants a deemed planning permission for a fence or means of enclosure adjacent to a highway used by vehicular traffic at a height of 1 m. I have therefore had regard to both of these solutions. I consider that if the fence was to be reduced in height to 1 metre, this would reduce the impact of the fence in the street scene to an acceptable level.
10. I acknowledge that the fence has been provided to give some privacy and security for the rear garden on this corner plot. However, the length and height of the fence as built, together with the materials used and its close proximity to the highway, results in an overly stark, dominant and incongruous feature, that is significantly at odds with other boundary treatments in the locality and the open and spacious character of the area.
11. For the above reasons, I find that the development significantly harms the open and spacious, character and appearance of the area. It therefore conflicts with saved policy 59.BE of the Eastleigh Borough Local Plan Review (2006). This policy seeks to ensure that development takes full and proper account of the context of the site including the character and appearance of the locality and is appropriate in scale, siting and materials.
12. This decision refuses planning permission for the fence as sought by the related planning application. I have no evidence before me to suggest that the fence was constructed in stages, rather than in a single operation. Accordingly, I have considered the planning merits of the fence, as a whole, for the purposes of the s78 Appeals C and D. I have acknowledged that the notice does not require the fence in its entirety to be removed or reduced in height. It is the fence indicated on the attached plan, between points A and B that the notice targets.

Other matters and conclusion

13. My attention has been drawn to other examples of similar boundary treatments in the area and I observed several of these at the time of my visit. I do not have any information about the relevant planning history or circumstances for these sites. From my observations, some appear to integrate more successfully than others. In any event, I have to determine this appeal on its own planning merits, and their presence would not justify granting this appeal. Overall, I consider that granting a further inappropriate boundary treatment would further erode the sense of space and cohesion of the area.

Appeal A

14. 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 application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal C

15. For the above reasons the appeal is dismissed.

Hilary Orr

INSPECTOR