
Appeal Decision

Site visit made on 25 February 2020

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2020

Appeal Ref: APP/D5120/C/19/3221291
193 Halfway Street, Sidcup DA15 8DE

- 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 D Hancock against an enforcement notice issued by the Council of the London Borough of Bexley.
 - The enforcement notice was issued on 11 December 2018.
 - The breach of planning control as alleged in the notice is without planning permission the unauthorised erection of a boundary wall, railings, and gates to the front of the property, whose location is approximately shown on the blue line on the attached plan.
 - The requirements of the notice are:
 - 1) Remove the walls and railings and gates whose location is approximately shown as a blue line on the attached plan;
 - 2) Remove all resultant materials from the site.Or
 - 1) Reduce the height of the wall and railings and gates whose location is approximately shown as a blue line on the attached plan to be 1 metre in height from ground level;
 - 2) Remove all resultant materials from the land.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) 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.
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Decision

1. It is directed that the enforcement notice be:
 - varied by deleting the words “two (2) months” within section 5 (Time for Compliance) and their replacement with “four (4) months”.
2. Subject to this variation, the appeal is dismissed, and 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.

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 and pedestrian safety.

Reasons

Character and appearance

4. The appeal site lies in a section of Halfway Street which is predominantly residential in character. Most of the front boundaries to the dwellings are marked by low brick walls with planting behind them which gives the street a pleasant soft-landscaped and open character.
5. The appeal property is located in a highly prominent location opposite the junction with Woodlands Avenue. In addition, the subject detached property has a relatively wide frontage, and the high boundary wall, railings, and gates stretches across the entire frontage of the property in this prominent location. As such, there are long range views of the frontage of the property when approaching from either direction on Halfway Street and from Woodlands Avenue.
6. Whilst the red brick wall has been constructed in a similar material to the host building and the metal railings allow views through the development, the height, length and prominence of the wall, gates and railings, combined with the overall thickness of the brick columns, form a large, obtrusive and incongruous feature in the street scene which is at odds with the prevailing character.
7. I appreciate that there are a small number of other tall fences, gates and walls in the area. However, the existence of these does not justify further harm. I also appreciate that the appellant states that the walls and gates provide additional security to the property, but this matter does not outweigh the harm to the street-scene. Furthermore, it is not considered that a landscaping condition/hedge would overcome the harm as it is the height of the wall, railings and gates, in this prominent location that is particularly discordant.
8. I conclude that the development harms the character and appearance of the area and conflicts with Policies ENV39 and H9 of the London Borough of Bexley Unitary Development Plan, 2004, (UDP), which taken together, requires new developments to be of a high standard of design and layout and compatible with the character of the existing building and surrounding area.

Highway and pedestrian safety

9. The Council have raised an objection with regards to the safety of pedestrian and road users as a result of the new boundary wall and gates stating that the development restricts inter-visibility of the drivers of vehicles egressing from the access and pedestrians passing by outside the site. It is also stated that the mechanically opening gates result in vehicles waiting on the road, obstructing the free flow of traffic on this classified road and a London Distributor Road¹.
10. Halfway Street 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. The road is also a bus route with a bus stop located further along Halfway Street approximately 20m from the appeal site². Additionally, on-street parking on this section of the road is controlled by yellow line waiting restrictions that operate between the hours of 08:00 and 18.30 Monday to Saturday.

¹ Designated within the Council's Unitary Development Plan (UDP) road hierarchy

² Distance taken from the appellant's appeal statement.

11. With regards to intervisibility for drivers, I note that this section of Halfway Street is relatively straight, with clear sightlines of oncoming vehicles and pedestrians clearly visible in both directions outside of the site. It follows that I am satisfied that there are clear sight lines for drivers both entering and exiting the appeal site.
12. Turning to the mechanical vehicular entrance gates, the evidence submitted indicates that this operates on a fob system which allows the gates to be opened remotely from a significant distance away. Therefore, the development does not require drivers to exit their vehicle in order to open/close the gates, and does not result in an obstruction to the free flow of traffic on the highway.
13. Furthermore, I have not been presented with evidence that the existing wall, railings and gates have resulted in any accidents. As such, there is no substantive evidence before me which demonstrates that mechanical gates would result in any greater harm in terms of highway and pedestrian safety than traditional gates, which would need to be opened manually.
14. Therefore, I conclude that the front boundary wall, railings and gates do not have a harmful effect on highway or pedestrian safety. In this respect the development complies with policy G18 of the UDP, and Policy CS15 of the London Borough of Bexley Core Strategy, 2012. Amongst other things, these states that the Council will manage or improve the borough's network of roads according to their function in the hierarchy of roads and maintain and manage the existing highway network to ensure the free flow of traffic..... and promote safety, health and wellbeing.
15. However, this is just one matter in the overall assessment of the development and does not alter my judgement set out earlier.

Conclusion on Ground (a) and the Deemed Planning Application

16. For the reasons given and with regard to all other matters raised, I conclude that the appeal on ground (a) should fail and the deemed planning application should be refused.

Ground (f)

17. The appeal on this ground is that the steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.
18. I have found under ground a) that the unauthorised development is harmful to the character and appearance of the surrounding area. To remedy the breach, the Council's notice requires the removal of the front boundary treatment or, in an acknowledgement of permitted development rights, to reduce its height to 1m. As the notice does no more than seek remedy of the breach, it is not excessive. However, the enforcement regime is intended to be remedial not punitive.
19. The appellant proposes two options. Firstly, it is suggested that the introduction of a mature hedge or planting behind the walls, would soften the overall appearance of the wall in the streetscene, and that the appellant is willing to accept a condition requiring the height and type of landscaping to be to be planted within a specified period. Secondly, it is proposed to reduce the

height of the wall, railings and gate to a maximum height of 1.5m. However, I have already found above that the planting of a hedge/landscaping condition would not be sufficient to mitigate the harm identified. Nor do I consider that the reduction in height of the front boundary treatment to 1.5m, would be satisfactory in terms of overcoming the harm caused to the character and appearance of the area, particularly given that the appeal site is located in an area predominantly characterised by low boundary walls.

20. It is not therefore possible to vary the notice in the ways suggested by the appellant whilst achieving the purpose of the notice. I therefore consider that there are no obvious solutions which would overcome the harm identified and there is also no obvious 'fallback' position.
21. On this basis, the Ground (f) appeal fails.

Ground (g)

22. The appeal on this ground is that any period specified in the notice falls short of what should reasonably be allowed. The appellant asks that the time for compliance is extended from two to six to nine months, to allow the appellant to make suitable arrangements in respect of the removal of the front boundary wall, but also appropriate alternative arrangements for the storage of his vehicles.
23. I have identified under ground (a) that the development results in harm to the character and appearance of the area. However, the time for completing the requirements should be what is reasonably considered necessary to complete the requirements. I consider a period of 4 months would give time to obtain quotations, appoint a contractor, carry out the works and find an alternative arrangement for the storage of vehicles. I shall therefore extend the period from two to four months for compliance with the notice.
24. The appeal succeeds on ground (g), and I shall vary the notice accordingly.

Conclusion

25. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

R Satheesan

INSPECTOR