



Appeal Decision

Site visit made on 18 February 2020

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2020

Appeal Ref: APP/G5180/C/19/3236844

Deverill Court, Avenue Road, Penge SE20 7RZ

- 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 Ms M Jarrett on behalf of Seventh Moat Housing Company Limited against an enforcement notice issued by the Council of the London Borough of Bromley.
 - The enforcement notice was issued on 19 August 2019.
 - The breach of planning control as alleged in the notice is:
Without planning permission, the erection of a metal fence exceeding 2m in height, around the front perimeter of the land.
 - The requirements of the notice, set out in paragraph 5 of the notice are:
 - (1) Remove the unauthorised fencing.
 - (2) Remove all materials associated with paragraph 5(1) above.
 - (3) Leave the land in a tidy condition.
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed and the enforcement notice is quashed. 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 erection of a metal fence exceeding 2m in height, around the front perimeter of the land at Deverill Court, Avenue Road, Penge SE20 7RZ.

Reasons

2. The main issue in the ground (a) appeal is the effect of the development on the character and appearance of the area. The area contains a mix of property types. It includes terraced homes with front and back gardens and much larger buildings. These include a tall hotel building at the end of the road and Deverill Court which is a tall block of flats set in landscaped grounds, on the appeal site.
3. At my site visit I found considerable variation in boundary treatments in the vicinity of the appeal site. Existing boundary treatments include a high brick wall, high solid timber fencing, concrete posts with chain links, dwarf walls (some with hedges behind), grass verges and open frontages with dropped kerbs to enable car parking on front gardens. The latter is the predominant treatment for the terraced homes nearest to the appeal site.

4. However, the character and appearance of the appeal site is entirely different from that of the neighbouring terraced homes. Therefore, in this context, a different boundary treatment for the appeal site is not inappropriate. The fence which has been constructed is tall compared with the boundary treatments of neighbouring buildings but so is the appeal building itself. Therefore I do not consider the height of this fence to be harmful on this site. The fence is formed of a metal mesh which allows clear views through it, maintaining a sense of openness that may not be achieved with a more solid design of this height.
5. Climbing plants have grown up the fence, giving it a soft, attractive, green appearance. Ample space exists immediately behind the fence for planting and there is no evidence this space would not remain in the future to continue to support climbing plants, even if those plants were not actively maintained. Considering all of the above points, in this context, I conclude the fence erected makes a positive contribution to the street scene and does not harm the character or appearance of the area. Accordingly, it does not conflict with Policy 37 of the Bromley Local Plan, identified by the Council in the notice.
6. The Council have not suggested any conditions which should be imposed on a grant of planning permission for the fence and I do not consider any are needed either.

Conclusion

7. For the reasons given above I conclude that the appeal succeeds on ground (a) and planning permission is granted in accordance with the application deemed to have been made under section 177(5) of the 1990 Act as amended. The appeal on ground (g) does not therefore need to be considered.

L Perkins

INSPECTOR