



Appeal Decision

Site visit made on 5 June 2020

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 22 June 2020

Appeal Ref: APP/N5090/C/19/3235994

Land at 45 Oakleigh Avenue, London N20 9JE

- 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 Mrs Jila Heirani against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The enforcement notice, numbered ENF/0363/19, was issued on 23 July 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission the construction of a new boundary wall and metal gates to the front of the property.
 - The requirements of the notice are to:
 1. Remove the metal gates, boundary wall and railings to the front of the property.
 2. Permanently remove all constituent materials resulting from the works in 1. above from the property.
 - The period for compliance with the requirements is 1 month.
 - 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 (the Act). Since the development is exempt from the payment of a fee, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Decision

1. It is directed that the enforcement notice be corrected by substituting "Without planning permission the construction of a new boundary wall and railings and metal gates to the front of the property" for "Without planning permission the construction of a new boundary wall and metal gates to the front of the property" in paragraph 3.
2. Subject to this correction 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.

Application for costs

3. An application for costs was made by Mrs Jila Heirani against the Council of the London Borough of Barnet. This application is the subject of a separate Decision.

The enforcement notice

4. The requirements of the notice require the removal of railings, in addition to removal of the boundary wall and metal gates recited in the breach of planning control (the allegation). The reasons for issuing the notice also refer to railings.
5. I have a legal duty to get the notice in order, and it is important that the allegation is right (subject to there being no injustice) especially as the terms of the Deemed Planning Application (DPA) derive from the allegation.

6. Therefore, I use my powers under section 176(1) of the Act to correct the allegation in the notice as follows: "Without planning permission the construction of a new boundary wall and railings and metal gates to the front of the property". I am satisfied that this would not cause injustice, noting that the appeal submissions from the main parties appear to have been based on an understanding that the alleged breach of planning control (and the terms of the DPA) includes railings together with boundary wall and metal gates. The main parties were also consulted on my intention to make the correction to the allegation, and no objections were made within the consultation period.

Ground (a) and the DPA

Main Issue

7. The main issue in this appeal is the effect of the development on the character and appearance of the area.

Reasons

8. While there is no particular uniformity in front boundary treatments along Oakleigh Avenue, the prevailing influence upon its character in the vicinity of the appeal site is formed by a predominance of properties nearby which are set with either low walls or open curtilages. Notwithstanding that the layout of openings associated with the appeal development is similar to that approved under 18/5285/HSE¹, it is significantly taller than approved under that scheme and as compared to boundary structures in the locality. The incongruous dominance of the streetscene created by the height of the development is accentuated by the ornate gold-coloured metalwork features upon the gates and railings, which are particularly prominent at high level, notwithstanding that there is a degree of colour harmonisation with the appeal dwelling which can be partially viewed through the structure.
9. Therefore the appeal development causes significant harm to the character and appearance of the area, and as such is in conflict with Policies 7.4 and 7.6 of The London Plan (2016), Policy CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document (2012) and Policy DM01 of Barnet's Local Plan (Development Management Policies) Development Plan Document (2012), as supported by the Council's Design Guidance Note No 9 Walls, Fences and Gates (1994), which together seek to protect character and amenity. The appeal development is also contrary to the Council's Residential Design Guidance Supplementary Planning Document which advises that front boundaries should reinforce the prevailing character of the street scene.
10. The Council says that the appeal development provides poor visibility for cars exiting the host property, while the appellant says that cars can easily turn within the drive and have more than sufficient visibility to exit safely. I note that this matter was not cited in the enforcement notice as a reason for issuing it, and in any respect it is not necessary for me to consider it as the appeal under ground (a) and the DPA fail on the main issue of dispute between the parties. Even were I to find that there was no harm to highway safety, this is a neutral factor and would not mitigate against the harm I have identified to character and appearance.

¹ 18/5285/HSE "New boundary walls and metal gates"; date of decision 15 November 2018

11. The appeal development does not accord with the development plan as a whole and there are no other considerations which outweigh this finding. Therefore, for the reasons given the appeal under ground (a) and the DPA fail.

Ground (g)

12. For this ground to succeed, I must be satisfied that the period of 1 month given in the notice for compliance falls short of what should reasonably be allowed. The requirements of the notice are straight-forward and not especially difficult to arrange or implement, and I find that 1 month is an ample and reasonable period for the appeal development to be demolished and removed, including its constituent materials. The appellant has cited the coronavirus outbreak as a reason for requesting 6 months but has not produced a substantive argument as to why the pandemic or any other factor would make it unreasonable for compliance to occur within the period stated in the notice. Accordingly, the appeal under ground (g) fails.

Conclusion

13. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and refuse to grant planning permission on the deemed application.

Andrew Walker

INSPECTOR