



Appeal Decision

Site visit made on 2 June 2020

by M Madge DipTP, MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 July 2020

Appeal Ref: APP/M4510/C/19/3241426

180 Wingrove Road, Newcastle upon Tyne NE4 9DA

- 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 Najeb Kosar against an enforcement notice issued by Newcastle-upon-Tyne City Council.
 - The enforcement notice was issued on 11 October 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of walls with fence panels to the north, south and west elevations that are 1800mm high.
 - The requirements of the notice are:
 - (i) Remove the wooden panels from the existing structure on all sides.
 - (ii) Lower the wall height to 1400mm on all sides.
 - The period for compliance with the requirements is 12 months.
 - The appeal is proceeding on the grounds set out in section 174(2)[a] of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary matters

2. The notice refers to the "erection of walls with fence panels to the north, south and west that are 1800mm high". The operational development that occurred included raising the height of a pre-existing 540mm high brick wall to a height of 1000mm and provision of piers to an overall height of 1800mm, fence panels have been installed between the piers. Requirement (i) refers to the removal of the fence panels, while requirement (ii) refers to lowering the wall to 1400mm. Having gone back to the parties, the Council has confirmed their intention to partly remedy the breach in order to comply with section 173(4)(b) of the 1990 Act. The appellant expressed no comment on requirement (ii).
3. The Council advises that an alternative proposal was granted full planning permission on 24 September 2018, under reference 2018/0246/01/DET (the 2018 PP). That scheme would see the rendered blockwork walling and fence panels removed and replaced with painted metal railing panels, which would have an overall height of 1400mm. This planning permission is extant and can be implemented as an alternative to complying with the requirements of the notice.

Reasons

Ground (a)

4. The main issue is the effect of the development on the character and appearance of the host property and surrounding street scene.
5. The Council's emerging Development and Allocations Plan (DAP) for Newcastle upon Tyne was subject to public examination in July 2019. Following receipt of the Inspector's post hearing letter, consultation on the main modifications took place between December 2019 and February 2020. Responses have been sent for the Inspector's consideration. Given the stage that the DAP has reached, limited weight can be given to its policies as they may change in the future. Policies DM20 and DM23 of the DAP do not significantly change the approach from that set out in the adopted development plan, which seek to deliver high quality development.
6. The appeal site is an end of terrace property located in a suburban residential area. Properties fronting on to Wingrove Road, which is a tree lined thoroughfare, predominantly have low brick boundary walls, some of which incorporate painted metal railings.
7. The site occupies a prominent location on the corner of Wingrove Road and Moorside South. It also has a service road located adjacent to its southern boundary. As such, all of the property's garden space and 3 of its boundaries are adjacent to highways, which affects the provision of private, secure garden space at the property.
8. The development incorporates several different elements: brickwork, pebble dashed rendered block work and fence panels. The existing dwelling is constructed in red brick, as are most of the boundary walls in the wider locality, albeit some walls incorporate painted metal railings. The development, by virtue of its variety of materials and design appears out of keeping with the prevailing character and appearance of the surrounding built environment.
9. The appellant's statement of case advises that the health and educational needs of their children are such that the development is necessary to provide an adequate level of security and privacy to their garden; to protect both their children and people passing by the property. The height and solid nature of the development achieves the security and privacy sought. However, a secure and safe garden could be achieved by an alternative form of development in terms of design and materials used. In comparison to the scheme permitted by the 2018 PP, I find the development has a visually harmful effect on the character of the street scene.
10. In addition, the 2018 PP provides for an alternative boundary treatment to be erected to replace the development, which may address the security concerns. It would also secure the removal of the whole development and provide for its replacement with additional brick courses to the pre-existing red brick wall and the provision of painted metal railings above; to a height of 1400mm. Unlike the scheme permitted by the 2018 PP, the development is out of keeping with the appearance of the host dwelling and street scene.
11. The development, by virtue of its scale, design and materials, is an incongruous and visually dominant feature, out of keeping with the character of the area and harmful to the visual appearance of the host property and street

scene. For these reasons the development conflicts with policy CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2010 – 2030 (2015), saved policies EN1.1 and H2 of the Unitary Development Plan (1998), and paragraphs 124 and 127 of the National Planning Policy Framework, which seek, amongst other things, to achieve high quality development that respects the materials and design characteristics of the surrounding built environment.

Conclusion

12. For the reasons given above I conclude that the appeal should not succeed. I have upheld the enforcement notice and refused to grant planning permission on the deemed application.

M Madge

INSPECTOR