



Appeal Decision

Site visit made on 21 July 2020

by Mrs H M Higenbottam BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2020

Appeal Ref: APP/Y5420/C/19/3242681
72 Creighton Avenue London N10 1NT

- 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 Mohammed Murad Ismail against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The enforcement notice was issued on 5 November 2019.
 - The breach of planning control as alleged in the notice is 'Without planning permission the:
 - I. Erection of a front boundary wall together with metal railings, pillars and entrance gates;
 - II. Insertion of a window into the wall of the west side elevation at first floor level.
 - The requirements of the notice are:
 - 1. Remove the following in their entirety:
 - I The front boundary wall including the metal railings, pillars and entrance gates;
 - II The middle window on the west side elevation at first floor level.
 - 2. Remove all resultant debris.
 - 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. It is directed that the appeal is allowed insofar as it relates to the insertion of the middle window on the west side elevation at first floor level and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the insertion of a window into the wall of the west side elevation at first floor level subject to the following condition:
 - 1) The building operations hereby permitted shall be removed and all materials or debris resulting shall be removed within two months of the date of failure to meet any one of the requirements set out in i) below:
 - i) Within 4 months of the date of this decision the window shall be obscurely glazed and either fixed shut or be fitted with a window that can only be opened at a height of 1.7m above the floor level of the room in which it is installed.

Upon implementation of the window details specified in i) above, the window shall thereafter be retained as such.

In the event of a legal challenge to this decision the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

2. It is directed that the enforcement notice be varied by the substitution of six months for two months as the period for compliance.
3. The appeal is dismissed and the enforcement notice is upheld as varied for the erection of a front boundary wall together with metal railings, pillars and entrance gates, and planning permission is refused in respect of the erection of a front boundary wall together with metal railings, pillars and entrance gates, on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal on ground (a)

Main Issues

4. The main issues in the ground (a) appeal are the effect of the front boundary wall, metal railings, pillars and entrance gates on the character and appearance of the area and the effect of the unauthorised window on the living conditions of the occupiers of the adjoining property, particularly in relation to privacy and overlooking.

Reasons

5. The appeal site is on the north side of Creighton Avenue which is predominantly residential in character. No 72 is a two storey detached dwelling set within a large plot. The plot slopes from the house down to Creighton Avenue.
6. The appellant states that the house was originally owned and built by the developer of the Ringwood Estate, established in 1926, which includes properties in Creighton Avenue, Ringwood Avenue, Beech Avenue and Church Vale.
7. The houses within Ringwood Estate are of varying styles, sizes and plot widths and depths. The houses on the north side are set back mainly in a similar alignment although No 72 and No 80 appear slightly further set back within their plots. The estate has a cohesive design, utilising a limited palette of materials with plain tiles, brick and painted render. There are detached and semi-detached properties and redevelopment of some sites within the road is evident. The traditional frontage boundary treatment comprises a low front boundary walls with planting or low brick walls with railings. Some vehicle accesses have gates and others do not.
8. In the immediate area, No 75, opposite, had high metal railings with a white painted section of wall on the right hand side, with vehicle and pedestrian gates. No 74 had a low brick wall that was engulfed in a hedge at the frontage and No 70 had a low brick wall with railings on top. No 77 had a higher than a metre front boundary wall which was granted planning permission in 1969. Those frontages with electric gates, at the time of my site visit, were closed, whereas those with manual gates were often left open.

Front boundary wall, metal railings, pillars and entrance gates

9. The front boundary wall comprises six pillars of varying height with two gates to facilitate pedestrian and vehicular access. The walls between the pillars are curved down wards with railings inserted between the pillars on top of the walls. The curved top gates are in the same style as the railings and are as tall, if not slightly taller, than the capped pillars adjacent. The gates are electronically operated. The height is significantly in excess of 1m, however there are no agreed measurements of the structures¹.
10. The front gardens/areas and boundaries within the street create the transition zone between the public street and the private realm of the householder. The appeal development has resulted in a tall, dominant frontage treatment which creates a strong defensible space in front of No 72. The electric gates reinforce the barrier frontage of the development as they are likely, more often than not, to remain closed. Traditional manual gates are often, for convenience, left open.
11. I appreciate there is permeability due to the use of railings in the gates and above the walls between the pillars on the frontage. The view through the railings/gates is of the hard surfaced front area and steps to the front door. The height of the boundary barriers is such that it appears intimidating within the street scene.
12. In my view, it is the combination of the height and full width barrier created by the boundary wall, metal railings, pillars and entrance gates which results in a development at odds with the prevailing character and appearance of the immediate area. This is reinforced by the lack of vegetation within the front area of No 72. As such, I consider that the development is of a poor design for its setting and is harmful to the character and appearance of the area. This is contrary to Policies 7.4 and 7.6 of the London Plan and Policy SP11 of the Haringey Local Plan (2013) and Policy DM1 of the Haringey Development Management DPD (July 2017) which require a high standard of design, which is of an appropriate scale and contributes to the distinctive character and amenity of the local area.
13. The appellant states that the development complies with Policy 7.3 of the London Plan. This policy sets out as a strategic aim that Boroughs and others should seek to create safe, secure and appropriately accessible environments where crime and disorder and fear of crime do not undermine quality of life or community cohesion. In relation to planning decisions development should reduce opportunities for criminal behaviour and contribute to a sense of security without being overbearing or intimidating. Therefore, while the policy supports appropriately designed security features it does not support development of poor design or inappropriate scale.
14. I was shown at my site visit a front ground floor window which had been damaged by unauthorised persons, prior to the installation of the frontage boundary. However, the appellant has not demonstrated that other frontage boundaries, which are more environmentally appropriate, could not achieve a satisfactory level of security for the occupiers. As such, while I understand the

¹ The appellant refers to the 6 pillars being of varying heights and that the brick at the highest point being 2m and at its lowest point measuring 0.87m height. A local resident refers to a height of exceeding 2.8m and at its lowest being 2.1m.

concerns of the appellant to provide a safe and secure home, the development before me is unacceptable for the reasons set out above.

15. The appeal on ground (a) in relation to the front boundary wall therefore fails.

Side window

16. The window attacked by the Notice is one of three windows on the flank elevation of No 72. The other windows are part of the approved plans pursuant to planning permission HYG/2016/0948. Condition 3 of that permission required the approved windows to be obscurely glazed and fixed shut or have a top level opening only at 1.7m above floor level.
17. The Council consider that the appellant could install a window under permitted development rights.
18. The adjacent occupier has raised issues about loss of privacy from the windows (plural). The Notice attacks only one of the windows on the flank elevation looking towards the bathroom window at No 74. I also note that the occupier is concerned in relation to privacy within the rear patio area of her property.
19. In my view, the fully opening clear glazed window results in significant overlooking harm and loss of privacy to the occupiers of No 74. However, I am satisfied that subject to conditions requiring the glazing to be obscure and the window being fixed shut or only opening at a height of 1.7m above floor level, the living conditions of the occupiers of No 74 would be adequately safeguarded.
20. Subject to the imposition of conditions to require obscure glazing and either non opening or only above 1.7m above floor level the window would comply with London Plan Policy 7.6 which requires building and structures to not cause unacceptable harm to the amenity of residential buildings and DM Policy DM1 requires development to provide an appropriate amount of privacy to residents of neighbouring properties. The appeal on ground (a) in relation to the flank window therefore succeeds.

Other Matters

21. A local resident has raised issues concerning inaccurate plans and issues with a patio to the rear. The Notice does not seek to address these points and as such they are not matters that are before me in this appeal.

Conclusion

22. For the reasons given above I conclude that the appeal on ground (a) should be allowed in part and dismissed in part.

Appeal on ground (g)

23. This ground of appeal is that the time given to comply with the notice is too short. The Council has given a two month compliance period. The appellant has requested a period of six months.
24. The appellant considers a period of six months to comply with the requirements is necessary because he would like the opportunity to submit a revised planning application and for that to be determined and implemented.

25. Planning permission will be granted, as a result of the ground (a) appeal for the flank window the subject of the Notice. Therefore, this ground of appeal is only relevant to the requirement to remove the front boundary wall including metal railings pillars and entrance gates and the resultant debris from the site.
26. There is no substantiated evidence to demonstrate it would take more than two months to remove the front boundary wall and debris. However, in order to enable an alternative frontage boundary treatment to be pursued I consider it would be appropriate to allow a longer compliance period. In my view, a period of six months would be a reasonable period to enable the appellant to design an alternative scheme, determine a planning application and, if consent is granted, to implement the works or in the alternative to comply with the Notice. The appeal on ground (g) therefore succeeds to this limited extent and I will vary the compliance period of the Notice accordingly.

Conclusions

27. For the reasons given above I conclude that the appeal should succeed in part only, and I will grant planning permission for one part of the matter the subject of the enforcement notice, but otherwise I will uphold the notice with variations and refuse to grant planning permission on the other part. The requirements of the upheld notice will cease to have effect so far as inconsistent with the permission which I will grant by virtue of s180 of the Act.

Hilda Higenbottam

Inspector