



Appeal Decisions

Site visit made on 14 May 2021

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 28 May 2021

Appeal A Ref: APP/M4320/C/20/3264143

Appeal B Ref: APP/M4320/C/20/3264144

2A Marlton Avenue, Crosby L23 0SL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- Appeal A is made by Mr and Mrs Henry Francis Callaway against an enforcement notice issued by Sefton Metropolitan Borough Council. Appeal B is made by Mrs Maureen Callaway.
- The enforcement notice was issued on 5 November 2020.
- The breach of planning control as alleged in the notice is without planning permission and within the last four years, the erection of a boundary fence and posts to the side of the dwelling house (as shown cross hatched on the attached plan Ref: A) in excess of 1 metre in height adjacent to a highway – Liverpool Road, Crosby.
- The requirements of the notice are:
 - a) Remove the fence and posts between points A-B & B-C as shown on attached plan Ref: B.
 - b) Reduce the height of the fence and posts to a maximum height of one (1) metre between points A-B & B-C as shown on the attached plan Ref: B.
- The period for compliance with the requirements is 6 months.
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the 1990 Act as amended. Appeal B is proceeding on grounds (f) and (g).

Summary of Decision: Appeal A is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision. Appeal B does not fall to be considered.

Preliminary Matter

1. The Council has clarified that the word “or” was omitted after the first requirement and steps a) and b) were intended as alternatives. I am invited to correct the notice accordingly.
2. I am satisfied that I can make this correction without injustice. Although there has been a slight error in the wording, as acknowledged, it is clear that the requirements were drafted as alternatives since it would not be necessary, or possible, to comply with them both.

Appeal A on ground (a) and the deemed planning application

Background and Main Issue

3. The appeal on ground (a) is that planning permission should be granted for the matters alleged. The terms of the deemed planning application are derived from the allegation and, hence, planning permission is sought for the erection of a boundary fence and posts to the side of the dwelling house in excess of 1 metre in height adjacent to a highway – Liverpool Road, Crosby.

4. The main issue is the effect of the development on the character and appearance of the street scene.

Reasons

5. The appeal site occupies a corner plot at the junction of Marldon Avenue and Liverpool Road (A565). The front elevation of the house faces onto Marldon Avenue with its side elevation facing towards Liverpool Road. The majority of the unauthorised fence sits alongside the side boundary to Liverpool Road and only a short stretch extends along Marldon Avenue. The remainder of the frontage is bounded by a garden wall with a privet hedge.
6. The property forms the end of a terrace of relatively substantial houses. The area is predominantly residential in character, although Merchant Taylor's School is located opposite and there is another educational establishment in the vicinity. I saw that Liverpool Road is busy and, while this was a snapshot in time, it is likely to be fair assessment given the road connects the city with Crosby and Southport. The presence of the schools will also result in increased activity at arrival and departure times.
7. Boundary treatment in the area is varied. The school opposite has a low timber fence to the playing field, with railings adjoining its parking area. The establishment to the north of the appeal site, Nazareth House, has a high red brick wall to Liverpool Road with railings and planting/trees to Marldon Avenue. The houses in the terraced group have standard height front garden walls with shrubbery, although the house at the opposite end has a high screen behind the wall with artificial greenery. I understand the screen may be unauthorised.
8. The fence subject to the notice is constructed from metal and extends to approximately 2m in height. It is designed to reflect a timber close boarded fence with a trellis and posts topped with ball finials.
9. The fence is prominently located and is highly visible due to the corner location, adjacent to a busy road. However, its design and colour softens an otherwise solid and bland appearance and the trellis detailing adds visual interest to the structure. Garden walls of a standard height are typical, however, there is not a consistent type of boundary treatment in the vicinity. The fence is seen in the context of the other types of enclosure nearby, in particular, the brick wall to Nazareth House. Also, the majority of the front wall and hedge along Marldon Avenue is unaltered, which is important. This forms a transition between the higher fence on Liverpool Road and maintains linkages with the garden walls further along Marldon Avenue.
10. In my opinion, the fence is not overly obtrusive and it does not stand out as a dominant or uncharacteristic feature.
11. I understand that the solid panel fence erected at No 199 Liverpool Road was refused planning permission and a subsequent appeal was dismissed¹. The character of that site and the design of the fence differed sufficiently from the matters before me to justify a different decision. A further appeal at No 43 Moorgate Avenue is referenced², however, I have limited details of that case and I am unable to make an informed judgement as to its relevance.

¹ Ref APP/M4320/D/19/3234374 dated 23 October 2019.

² Ref APP/M4320/D/18/3213398 dated 7 December 2018.

Other Matters

12. I understand that Merchant Taylors School is a grade II listed building. The Council has not suggested that the development has an impact on the setting of the listed building and there is no reason for me to find otherwise. I conclude that the setting of the listed building would be preserved in accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Conclusion

13. For the reasons given above, I conclude that the development does not have an adverse effect on character and appearance of the street scene. It accords with Policies EQ2 and HC4 of the Local Plan (2017) and the Council's Supplementary Planning Document – House Extensions (2018) which, among other things, seek to ensure development responds positively to the character, local distinctiveness and form of its surroundings, while protecting residential amenity. It would meet the aims of paragraph 127 of the National Planning Policy Framework which seeks to promote high quality design.

Conclusion

14. I conclude that Appeal A succeeds on ground (a). I shall grant planning permission for the development as described in the notice as corrected. The appeals on grounds (f) and (g) do not therefore fall to be considered.

Formal Decision

15. It is directed that the enforcement notice is corrected by the insertion of the word "or" after requirement a) in paragraph 5 of the notice.
16. Subject to the correction Appeal A is allowed, the enforcement notice is quashed 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 development already carried out, namely the erection of a boundary fence and posts to the side of the dwelling house in excess of 1 metre in height adjacent to a highway – Liverpool Road, Crosby at 2A Marldon Avenue, Crosby L23 0SL as shown on the plan attached to the notice.
17. Appeal A on grounds (f) and (g) and Appeal B do not fall to be considered.

Debbie Moore

Inspector