



Appeal Decisions

Site visit made on 29 June 2021

by JP Roberts BSc(Hons) LLB(Hons) MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 09 July 2021

Appeal A Ref: APP/X0360/C/21/3268957

21 Redhatch Drive, Earley, Reading RG6 5QS

- 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 Kurian Koshy against an enforcement notice issued by Wokingham Borough Council.
 - The enforcement notice was issued on 8 February 2021.
 - The breach of planning control as alleged in the notice is:
Without planning permission, the erection of a brick wall, including pillars and railings, above 1 metre in height adjacent to the highway, shown hatched blue in the approximate location on the attached plan.
 - The requirements of the notice are:
 - i) *Reduce the overall height of the brick wall pillars and railings to 1 metre above ground level.*
 - ii) *Permanently remove from the land all materials resulting from compliance with step 1. above.*
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B Ref: APP/X0360/W/21/3267585

21 Redhatch Drive, Earley, Reading RG6 5QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Kurian Koshy against the decision of Wokingham Borough Council.
 - The application Ref 203208, dated 20 November 2020, was refused by notice dated 23 December 2020.
 - The development proposed is the erection of a front compound wall with steel railings and entrance gate (retrospective).
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Decisions

Appeal A

1. The appeal is dismissed, 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.

Appeal B

2. The appeal is dismissed.

Appeal A (ground a) and Appeal B, the s.78 appeal

Main Issue

3. The main issue is the effect of the development on the character and appearance of the surrounding residential area.

Reasons

4. Redhatch Drive is a well-established residential road, with a variety of designs of detached houses and bungalows. The dwellings are set back from the road, separated by a grassed verge and footpath. These verges, the regularly spaced street trees on them, and planting in many of the front gardens, some of which is abundant, create a strong impression of greenery which makes a significant contribution to the attractiveness of the road.
5. The overwhelming majority of front boundary enclosures in the road are low walls with planting behind them, and the relatively open frontages allow good views of the greenery behind. The wall as erected comprises two brick pillars about 1.8m high on either side of the access, and a lower wall with 5 pillars about 1.5m high. The lower parts of the wall are infilled between the pillars by decorative metal railings, again about 1.5m high. The Appeal B proposal would include a metal gate up to 2m in height. The photographs submitted by the Council show that the front garden was previously enclosed by a low brick wall with extensive planting behind.
6. The greater height of the front enclosure in comparison with the other low walls in the road appears out of keeping, defensive and austere. I consider that this results in material harm to the attractiveness of the road to which I have referred above. Furthermore, other than for a narrow strip along the western boundary, and another immediately behind the wall, the whole of the front garden of the appeal property has been paved over. Close boarded fencing has been erected along the side boundaries of the property. These features are also uncharacteristic of the area, and the wall and railings add to the incongruity.
7. Whilst I note the intention to plant the border behind the wall with shrubs, this planting has not been carried out, and it would be likely to take some years to achieve a green backdrop sufficient to soften the harmful impact of the walls and railings.
8. The tall metal gate proposed in the Appeal B scheme would further add to the harm to which I have referred, because of its discordant height and materials.
9. The appellant has referred me to four examples in the road where higher walls, or walls and railings, exist. None of these is close to the appeal site, the nearest being some 150m away, with intervening properties all having low walls. I have not been told of the planning status of these developments, so there is no evidence that any have been granted planning permission. For the reasons I have explained in respect of this appeal, I consider that they are not good examples to follow, and the existence of a very few anomalous walls and railings does not justify further harmful development.
10. The appellant has also referred me to walls and piers which have been approved at a house at 43 Arbor Lane, Earley, over 2 miles away from the appeal site. Whilst I note that hedges are a feature of that locality, I consider

that the context is somewhat different from this, and the existence of this permission is insufficient to outweigh my objections.

11. I therefore conclude on the main issue that the development as existing and proposed results in material harm to the character and appearance of the surrounding residential area, and conflicts with Policies CP1 and CP3 of the Wokingham Core Strategy, which respectively deal with sustainable development and general principles for development. It fails to provide the high quality landscaping sought by Policy CC03 of the Managing Development Delivery Local Plan, which deals with green infrastructure, trees and landscaping. It also conflicts with the aims of the Council's Supplementary Planning Document, the Wokingham Borough Design Guide which, amongst other things, say that boundary treatments should be designed to contribute positively to the character of the area and to the quality of the public realm.

Other matters

12. The requirements of the notice engage with the appellant's family's rights to respect for their family life and their home under Article 8, as well as the right to respect for property, under Article 1 of the First Protocol, which are Convention rights enshrined into UK law by the Human Rights Act 1998. However, these rights are not absolute, and interference may be justified in the public interest. In this case, the planning system exists to regulate the use of land in the public interest, and, in doing so, interferes with a landowner's rights. Upholding national and local planning policy, and the importance of protecting the character and appearance of the area are matters of legitimate public interest.
13. There are no lesser steps which could be taken to meet the policy objectives, and whilst I recognise that the interference with the appellant's rights would be significant, the burden of complying with the enforcement notice would be necessary and would not be disproportionate.

Conclusion on ground (a) and Appeal B

14. For the reasons given above, I conclude that the development results in material harm to the character and appearance of the area and conflicts with the development plan policies referred to above. The appeal on ground (a) fails and Appeal B is dismissed.

Appeal A – ground (f) that the requirements of the notice are excessive

15. The notice does not require the complete removal of the wall and pillars, but in recognition of the right to construct a wall up to 1m in height, it only requires the walls and pillars to be reduced to that height. The requirements are therefore not excessive. The appellant considers that the notice ought to allow for the reduction of the gate pillars to 1.5m in height, the removal of the other pillars and to allow railings to a height of 1.5m above the whole of the 1m high wall.
16. Whilst this suggestion would be an improvement on the current appearance of the site, it would still result in an enclosure at odds with the overall character of the road and would not overcome the harm that I have found.
17. Accordingly, the appeal on ground (f) fails.

Appeal A – ground (g) – that the period of compliance is too short

18. The notice specifies a compliance period of 3 months. The appellant accepts that the physical works involved are not major and within the capabilities of a jobbing builder but argues that the cost would impose financial hardship on the appellant's family. I have to balance the public interest in the notice being complied with expeditiously with the appellant's private interests.
19. The cost of the remedial works, whilst not insignificant, are nevertheless not likely to be very high. I have not been provided with any details of what particular hardships the family might face as a result of having to pay for the work to be carried out, and as the Council points out, the proposal was to include an automatic steel gate, the cost of which is likely to be significant and no longer has to be incurred. I therefore consider that a compliance period of 3 months is reasonable in the circumstances.

Overall conclusions

Appeal A

20. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

21. The appeal is dismissed.

JP Roberts

INSPECTOR