



Appeal Decision

Site visit made on 6 July 2021

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2021

Appeal Ref: APP/A5840/C/20/3261796

33 Bawdale Road, London SE22 9DL

- 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 Rimsky Vidal against an enforcement notice issued by the Council of the London Borough of Southwark.
 - The enforcement notice was issued on 6 September 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a fence along the eastern boundary of the Property which exceeds the height permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and which is shown in the approximate position marked in blue on the attached plan ("the Unauthorised Development").
 - The requirements of the notice are:
 - 5.1 Reduce the height of the fence along the eastern boundary of the Property to a height of no more than 2 metres from ground level; and
 - 5.2 Remove from the Property any material and debris resulting from the works in requirement 5.1.
 - The period for compliance with the requirements is 1 month.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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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.

Procedural Matters

2. Further revisions have been made to the National Planning Policy Framework during the course of my consideration of the appeal and a revised version was published in July 2021 (the Framework). I have invited the main parties to comment on the Framework and I have taken account of any responses from them in my determination of the appeal. The changes to the Framework do not materially alter the policies within the Framework most relevant to this appeal.

Ground (a) and the Deemed Planning Application

Main Issues

3. The main issues are the effect of the development on the living conditions for the occupiers of No 31 Bawdale Road, with particular regard to light, overshadowing and outlook.

Reasons

Living conditions for the occupiers of No 31 Bawdale Road – Light, overshadowing and outlook

4. The guidance contained within the Residential Design Standards SPD, 2011 and 2015 technical update (Design SPD) states that in general, rear garden walls and fences should not exceed 2 metres to protect views and daylight. I appreciate that the Design SPD is in the form of guidance and is not therefore a hard and fast rule. However, it provides a useful indication of what may be acceptable in accordance with design codes that the Council can use as set out in chapter 12 of the Framework.
5. Owing to the position of the tall close boarded fence, which for a large part is situated between the two storey back additions (outriggers) of Nos 31 and 33, and its single storey height, I am satisfied that the fence does not result in any overshadowing and loss of light to neighbouring occupiers of No 31.
6. However, with regard to outlook, the tall close boarded fence extends for a considerable length of the rear garden along the boundary with No 31, resulting in a dominant and overbearing form of development when viewed from No 31. During my site visit I observed that outlook from No 31 would be severely restricted by this development resulting in an increased sense of enclosure to occupiers of this property, thereby harming their living conditions.
7. Therefore, whilst I find no harm in relation to loss of light and overshadowing, I consider that the development fails to provide acceptable living conditions for occupiers of No 31, with regard to outlook. Accordingly, the development is contrary to saved policy 3.2 of the Southwark Plan (2007) and strategic policy 13 of the Southwark Council Core Strategy (2011). Amongst other things, these state that planning permission for development will not be granted where it would cause loss of amenity..... to present and future occupiers in the surrounding area, and that development should avoid amenity and environmental problems.
8. Furthermore, the development is contrary to paragraph 130 of the Framework which seeks to ensure all developments creates places with a high standard of amenity for existing and future user.

The Council have also referred to emerging Policy 13 (Residential Design) of the draft New Southwark Plan. However, this emerging policy appears to relate to design standards for new residential development and is therefore not relevant for the current development before me.

Other Matters

9. I understand that the fence provides additional protection from the anti-social behavioural issues that the appellant has experienced. Whilst I have great

sympathy with the appellant with regard to these problems, this does not outweigh the harm identified above.

Conclusion

10. 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.

R Satheesan

INSPECTOR