



Appeal Decision

Site visit made on 18 July 2021

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd August 2021

Appeal Ref: APP/M3645/C/21/3270425 51 Holland Road, Hurst Green RH8 9AU

- 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 Mrs Lauren Loudon against an enforcement notice issued by Tandridge District Council.
 - The enforcement notice, numbered Enf/2020/342, was issued on 1 February 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a fence over one metre in height on land adjacent to a highway used by vehicular traffic in the approximate position shown by a blue line on the attached plan B.
 - The requirements of the notice are:
 - (i) Either remove the fence and supports outlined in blue on the attached plan be from the site, or reduce it to one metre or less above the adjacent ground level (pavement level)
 - (ii) Following compliance with (i) above, remove all resultant debris and unused materials from the land to an authorised place of disposal.
 - The period for compliance with the requirements is 3 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. 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, 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.

Procedural matter

2. On 20 July 2021 the revised National Planning Policy Guidance came into force. The parties have been given the opportunity to comment, but have made no changes to their submissions.

Main Issues

3. Having regard to the reasons why the notice was issued, the main issues are:
 - the effect of the development on the character and appearance of the area; and
 - The effect of the development on highway safety.

Reasons

Character and appearance

4. The site is located to the east of Holland Road in a primarily residential area. It forms one of a pair of semi-detached dwellings within a modest front garden. The dwellings in this part of Holland Road are set back from the main vehicular carriageway by a large verge, interspersed with trees and off street parking bays. The west side of Holland Road is predominantly marked by a wide grassed area with established trees and hedges, with further housing behind. These factors give the immediate area an open spacious character. The fence subject to the notice is a close boarded timber construction of some 2 metres in height with existing low wrought iron gates. What appears to be a shared driveway leads to two garages sited to the rear of No 51 and No 53. In their evidence the Council submit that the frontage parking and grassed area, together with the pavement, form part of the designated highway. I have no reason to disagree with this view.
5. Other boundary treatments in the area are generally marked with low walls, fencing and hedges, allowing some views of the frontage, and to the dwellings beyond. I acknowledge that the fence has been provided to give some privacy and security to the front of this dwelling. However, the excessive height of the fence as built, together with the materials used and its close proximity to the highway, results in an overly stark, dominant and incongruous feature, that is significantly at odds with other boundary treatments. Moreover, the proximity of the fence to the pavement allows little scope for any planting or screening to soften its harsh appearance.
6. For the above reasons, I find that the development unacceptably harms the open and spacious character and appearance of the area. It therefore conflicts with saved policy CSP18 of the Tandridge District Core Strategy (2008) (the CS) and policies DP7 and DP9 of the Tandridge Local Plan Part 2: Detailed Policies (2014) (the LP). In summary, these policies seek to ensure that new development is of high quality design that integrates, respects and reflects the character of the streetscape and the local context.

Highway safety

7. On my site visit I noted that the residential nature of the area and fact that there is no pedestrian footpath on the western side of the road, means that the pavement adjacent to the site, is well used by both adults and children. Vehicles entering or leaving the site, or the neighbouring dwelling at No 53, would have no option than to cross this pavement. Given its proximity to the pavement, the height and position of the fence, as built, significantly reduces visibility for drivers of vehicles when leaving the driveways of either No 51 or No 53, resulting in potential conflict with pedestrians.
8. The notice seeks to remedy the breach of planning control by either removing the fence, or reducing it in height so as not to exceed 1 metre (m). This latter step means that it would potentially comply with the Town and Country Planning (General Permitted Development) (England) Order 2015, which in summary grants a deemed planning permission for a fence or means of enclosure, adjacent to a highway, up to a height of 1m. I have therefore had regard to both of these solutions, although it is important to note that any formal determination of lawfulness falls outside the scope of this appeal. I

consider that if the fence was to be reduced in height to 1 metre, this would reduce the impact of the fence in the street scene and on highway safety, to an acceptable level.

9. Drawing the above points together, I acknowledge that I have not been provided with evidence of any incidents or accidents to date. However, to my mind, this does not diminish the risk of future collisions. Consequently, and for the above reasons, I find that the development by virtue of its location, height and solid timber design, unacceptably affects the safety of pedestrians using the highway, including the pavement. It is therefore contrary to policies DP5 of the LP, which seeks to ensure that development does not create hazards to traffic or other road users.

Other matters

10. My attention has been drawn to the height of a hedge at a neighbouring property. However, hedges generally fall outside the scope of planning control and differ in nature from built boundary treatments. Accordingly, its existence does not alter my findings or justify allowing this appeal.
11. I have also had regard to the appellant's suggestion to change the colour of the fence to try to reduce its prominence. However, I do not consider that this would be sufficient to overcome the harm that I have identified above, resulting from its location, height and design, on the character of the area, or highway safety.

Conclusion

12. 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.

Hilary Orr

INSPECTOR