



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/L3625/C/21/3270692 Meriden, The Glade, Kingswood KT20 6LL

- 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 Kevin Abraham against an enforcement notice issued by Reigate & Banstead Borough Council.
 - The enforcement notice, numbered EO1/890, was issued on 11 February 2021.
 - The breach of planning control as alleged in the notice is the unauthorised erection of front boundary wall, piers and railings in excess of permitted development heights (of 1m adjacent to highway) and gates and gate piers in excess of permitted development heights (of 2m above ground level)
 - The requirements of the notice are:
 - (i) Remove or reduce the height of front boundary wall, railings and wall piers to a maximum height of 1m
 - (ii) Remove or reduce the height of gates and gate piers to a maximum height of 2m
 - (iii) Remove all associated debris as a result of the works undertaken from the land (outlined red on the site plan).
 - The period for compliance with the requirements is four calendar 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.

Reasons

3. I have had regard to the reason why the Council issued the notice. I consider that the main issue is, the effect of the development on the character and appearance of the Residential Area of Special Control (RASC). The accompanying text to Policy DES 3 of the Reigate and Banstead Local Plan Development Management Plan (2019) (the LP), confirms that each designated RASC has its own unique identity and distinct character. Council policies seek to retain protect and enhance these characteristics.

4. It goes on to clarify that the characteristics of RASC's generally include a prevailing low density character, with detached buildings set back from the road, within wide, spacious plots, and with mature soft landscaping, wide verges and a general leafy character.
5. The appeal site is located within a predominantly residential area to the south side of The Glade and opposite the junction with Forest Drive. To the east lies the local lawn tennis club. From my site visit, the area is characterised by substantial dwellings of varying design, within large, landscaped plots. The width of the road and grass verges add to the feeling of space, giving the area an attractive open aspect. The open frontages and hedging that generally mark the boundaries of the dwellings, add to this sylvan character. The appeal site is generally consistent with this character, occupying a prominent position at the junction with Forest Drive.
6. The subject development has been sited along the frontage and width of the property. From the evidence, the development has replaced a boundary treatment comprising a low brick wall gates and piers, with substantial hedging behind. It is of white painted 'scalloped' design, with infill railing panels set between the piers. From the Council's evidence, the wall varies in height from some 2.2 metres (m) to the top of the railings, with the wall piers at some 2.4 m. The dome topped gates rise to about 2.5m and the associated gate piers to approximately 2.1m. I have no reason to disagree with these measurements.
7. The development is clearly visible when travelling along The Glade in either direction, and when entering the Glade from Forest Drive. I acknowledge that the development has been provided to give some privacy and security for the occupiers of the dwelling. However, the walls, railings, gates and piers, as built, by virtue of their height and design, have introduced an overly stark, dominant and incongruous feature, on this prominent plot, that is significantly at odds with the open nature and boundary treatments of other properties within the RASC.
8. The notice seeks to remedy the breach of planning control by either removing the development or reducing it in height, so as not to exceed 1 metre in height. 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, wall or means of enclosure, adjacent to a highway at a height of 1m. I have therefore had regard to both of the solutions set out in the notice, although it is important to note that any formal determination of lawfulness falls outside the scope of this appeal. To my mind however, if the development was to be reduced in height to 1 metre, this would reduce its impact in the street scene to an acceptable level.
9. For the above reasons, I find that the front boundary wall, piers and railings, gate piers and gates, as built, unacceptably harms the open and spacious, character and appearance of the RASC. It therefore conflicts with Policy DES 1 and DES 3 of the LP. These policies in summary seek to ensure that new development is of high quality design that makes a positive contribution to the character and appearance of the area, and frontage development should reflect the existing street scene and the character of the RASC.

Other matters

10. My attention has been drawn to other examples of similar boundary treatments in the area and I observed several of these at the time of my visit. I do not have any information about the relevant planning history or circumstances for these sites. In any event, I have to determine this appeal on its own planning merits, and their presence alone would not justify granting this appeal. From my observations, some appear to integrate more successfully than others. However, I do not consider that their existence has changed the overall character of the area. Furthermore, I consider that granting another inappropriate boundary treatment, would further erode the sense of space and cohesion of the area.
11. I note the appellant's concerns that it has taken some time for the Council to serve the enforcement notice. S172(1)(b) empowers a Council, as the local planning authority, to issue an enforcement notice, when it appears to them that there has been a breach of planning control and they consider it expedient, having regard to the provisions of the development plan and other material considerations. However, this is a discretionary power and it is for the Council to decide whether, and when, it is expedient and proportionate to issue a notice.
12. I am satisfied that, in this instance, there was a breach of planning control and the Council's decision to exercise their discretionary powers to issue the enforcement notice, albeit sometime after the breach was first identified, did not amount to acceptance of the unauthorised development, or fetter their right to issue the notice.

Conclusion

13. 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