



Appeal Decisions

Site Visit made on 13 August 2021

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2021

Appeal Ref: APP/B1550/C/20/3259644 (Appeal A) & 3259645 (Appeal B) Land at 483 Ashingdon Road, Rochford, Essex SS4 3EU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Shaun Barlow (Appeal A) and Mrs Leanne Barlow (Appeal B) against an enforcement notice issued by Rochford District Council.
- The notice was issued on 20 August 2020.
- The breach of planning control as alleged in the notice is Without planning permission, the erection of a close boarded timber fence approximately 1.8metres in height adjacent to the highway used by vehicular traffic and pedestrians (in the approximate position marked A to B and marked by XXXs on the attached plan).
- The requirements of the notice are to:
 1. Alter the close boarded timber fence reducing its overall height to 1metre, measured from the natural ground immediately adjacent the fence
 2. Remove from the site all resultant material and debris from the site
- The period for compliance with the requirements is: One (1) month.
- The appeals are proceeding on the ground 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.

Decisions

1. The appeals are dismissed and 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.

Preliminary Matters

2. Since the appeal was lodged, the Government published its revised National Planning Policy Framework ('the Framework')(July 2021). The parties have had the opportunity to comment on the implications of the changes during the appeal process.
3. Although the enforcement notice makes reference to Supplementary Planning Document 2 – Housing Design and the Essex Design Guide, it does not allege conflict with the guidance contained therein, nor have I been provided with a copy of the documents. It is clear from the enforcement notice and the evidence submitted that it is the conflict with policies CP1 of the Core Strategy (CS)(December 2011) and DM1 of the Development Management Plan (DMP)(16 December 2014), as well as the Framework that the Council is concerned with and so I have dealt with the appeal on this basis.

Main Issue

4. The main issue of the appeal is the effect of the appeal scheme on the character and appearance of the area.

Reasons

5. The appeal site is located in a prominent location on the corner of Ashingdon Road and Albert Road and comprises a semi-detached bungalow which fronts onto Ashingdon Road. Ashingdon Road is characterised by a mixture of residential dwellings of varying styles and design and commercial properties. Properties along Ashingdon Road generally have modest front gardens, with low level boundary treatments and planting, which give a sense of space and a verdant character and make a positive contribution to the area.
6. The appellants have erected a close boarded timber fence measuring approximately 1.8m in height to the front of the dwelling. Although the fencing forms a continuation of fencing along Albert Road, due to its prominent location along Ashingdon Road, it is a dominant feature which presents an enclosed frontage to passers-by. This diminishes the sense of space so characteristic of the area and appears incongruous along this section of Ashingdon Road. While I saw there are other 2m high fences in the wider area, these typically comprise side returns. Furthermore, they do not inform the character of this part of Ashingdon Road.
7. I accept that a 1m fence would be easy for users of the garden to climb over. However, should the appellants wish their children to utilise the front garden, I see no reason why they could not do so safely, with supervision. Furthermore, from the evidence before me, it appears that there is private garden space to the rear of the dwelling. Whilst this may be smaller than the front garden, I have no evidence to suggest it is not useable.
8. While the fence would limit the ability of patrons of the nearby public house to access the front garden of the appellant's property, I am not persuaded that the appeal scheme is the only means of securing the premises and therefore afford this matter very limited weight.
9. Due to the height of the fencing, its prominent location and close proximity to the highway, it appears a dominant, incongruous feature which diminishes the character and appearance of the area, contrary to policy CP1 of the CS, which seeks good, high quality design that has regard to local flavour and policy DM1 of the DMP which seeks development which promotes the character of the locality, amongst other things. It is also in conflict with the Framework, which seeks well-designed places.

Other Matters

10. Whilst I note that the fencing does not restrict views coming out of Albert Road and the Highway Authority has not objected to the scheme, this is a neutral factor in my consideration of the appeal.

Conclusion

11. I conclude that the development conflicts with the development plan as a whole and there are no material considerations which indicate that the decision should be taken otherwise in accordance with the development plan.
12. For the reasons given above, I conclude that the appeals 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.

M Savage

INSPECTOR