The Planning Inspectorate

Appeal Decision

Site visit made on 5 October 2021

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2021

Appeal Ref: APP/N4205/C/21/3279151
Land at York House, Knowsley Grange, Bolton as shown edged red on the attached plan

- 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 Ms Namita Chopra against an enforcement notice issued by Bolton Metropolitan Borough Council.
- The enforcement notice was issued on 16 June 2021.
- The breach of planning control as alleged in the notice is the erection of a fence.
- The requirements of the notice are (i) demolish the fence shown for identification purposes in the photographs attached to this notice; (ii) remove from the land all materials and rubble arising from compliance with step (i) above; and (ii) make good any damage caused by compliance with steps (i) and (ii) above.
- The period for compliance with the requirements is 60 days.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended (the Act).

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 Matter

2. On 7 September 2021, the appellant wrote to the Planning Inspectorate to say that there had been an accident on the road and the fence had been damaged. The appellant was not certain about the effect that this would have on the enforcement notice appeal. As part of the consideration of the ground (a) appeal, it is necessary that I take into account the breach of planning control as it existed when the notice was issued, i.e. as the fence appears in the photographs accompanying the enforcement notice. The recent damage to the fence has no bearing on how I deal with the ground (a) appeal and, furthermore, I am satisfied that it has no implications in terms of compliance with the requirements of the enforcement notice.

Ground (a) appeal and the deemed planning application

3. The appeal is made under ground (a) which is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice. I have considered the reasons for issuing the enforcement notice and the main issue is whether or not the fence preserves or enhances the character or appearance of the Chorley New Road Conservation Area.

4. The Chorley New Road Conservation Area (CA) is located about two miles west of the centre of Bolton in the suburb of Heaton. The A673 leading from Horwich and Chorley forms the main vehicular route through the area, but there are smaller roads and lanes that lead off to the north and south and forming mainly residential areas. One such area includes the appeal site which forms part of a scattering of large, detached dwellings set within spacious plots and positioned within a verdant environment.

5. In fact, and, in the main, one positively appreciates the CA as a whole as a wooded and landscaped area and where there is an emphasis on large and spacious residential plots. While the area has clearly evolved over time, including a movement towards developing more modern dwellings in the gardens of more traditional and large villas, the area nonetheless retains a bosky and spacious character. While overall there are a variety of different boundary treatments in the CA, where they do exist there is generally a consistency to their appearance, height and design within each of the relatively concealed residential areas that spur off the A673.

6. Despite the apparent age of the Council's Chorley New Road Conservation Area Appraisal (CA Appraisal), my site visit observations revealed that the statement made in the CA Appraisal that *'stone and brick garden walls are an important feature of the Conservation Area'* continues to be applicable. There are some exceptions as highlighted in the appellant's appeal statement, but the number and position of the appellant's identified fences does not alter my overall finding about the CA as a whole and indeed the part of the CA where the appeal development is located. Collectively, the aforementioned attributes add positively and distinctively to the overall significance of the CA when considered as a whole.

7. The appeal property is accessed from a private drive and forms part of a number of large, detached dwellings. The properties in this area are mostly of modern style and architecture and, in this regard, make a neutral contribution to the significance of the CA. However, the sense of spaciousness around each of the properties, coupled with the very significant landscaping and trees is very much reflective of the significance of the CA as a whole. While there is evidence of the use of a small number of fences in Knowsley Grange, the boundaries that are more visible to passers-by are appreciated and characterised by predominantly brick or stone piers with infill railings. There are also some low stone walls. Consequently, the boundary treatment in this locality provides a predominantly soft and sympathetic edge to each residential plot and the materials used suitably blend with the surrounding properties and the surrounding landscaped environment.

8. The appeal boundary fence is located alongside the access drive to the neighbouring property, Carefree. It ranges in height from about 1.5 metres to just over 2.0 metres and the majority of it comprises timber panels with concrete posts and bases on top of a dwarf stone wall. At the eastern end, it wraps around the corner of the plot along the Knowsley Grange access road, and at the western end is a taller section of wooden fence alongside the boundary with Carefree. According to the appellant, *'the land enclosed by the new fencing was originally an open planted strip of garden, but with a timber fence standing within, close to the house'.* I have not been provided with images showing what the site was like previously, but at the very least there is no dispute that the land where the fence is sited was open and planted.

9. The majority of the fence is sited in a prominent corner location and is highly visible when seen by occupiers of other residential properties. Owing to its height, solid appearance, use of materials and overall length it detracts significantly from the predominantly brick or stone piers with open railings in the immediate locality. It appears as a dominating and harsh structure unacceptably competing with the otherwise mainly spacious, uniform and softer appearance afforded to the residential plots and boundaries in this part of the CA.

10. I acknowledge that the road into Knowsley Grange is private. However, I do not doubt that members of the public, including visitors, would also visit the various properties from time to time. In any event, the character of the CA derives from the buildings, layout and surrounding spaces as a whole, regardless of whether particular elements are open to public view. Its significance does not therefore rely only on the elements that can readily be seen from public roads.

11. In the context of paragraph 202 of the National Planning Policy Framework 2021 (the Framework), the breach of planning control has resulted in less than substantial harm to the significance of the CA. The appellant says that the fencing has been erected to address *'repeat instances of trespassing on the land'.* On the evidence that is before me, I cannot be absolutely certain that such trespassing has taken place. However, and even if that were a regular issue, there would likely be other more sensitive boundary treatment or security options available to explore by the appellant that would not result in the same level of harm to the character and appearance of the CA. I therefore find that any public benefits associated with the appeal development, including minimising the possibility of anti-social or criminal activity at the site, would not outweigh the less than substantial harm caused to the significance of the CA.

12. For the reasons outlined above, I find that the breach of planning control does not preserve or enhance the character or appearance of the CA. It does not accord with the design, character, appearance and conservation requirements of policies CG3 and OA4 of the Bolton's Core Strategy 2011 or chapter 16 of the Framework.

Other Matters

13. At final comments stage, the appellant responded to comments made by the occupiers of Carefree who appointed a planning agent to act of their behalf. The evidence indicates that there have been some historic issues between the appellant and the occupiers of this neighbouring property in respect of land ownership, alleged trespass, trees and construction work. I have already addressed the alleged trespass issue above and the other considerations are not of direct relevance to the determination of the ground (a) appeal.

14. The appellant questions whether the ground (a) appeal development would in fact be permitted development. However, an appeal has not been lodged under s174(2) (c) of the Act, i.e. that the matters alleged in the notice do not constitute a breach of planning control. Reference is made by the appellant to a fence elsewhere in the locality and it is suggested that the local planning authority indicated that it would be permitted development if it were reduced in height to no more than 2 metres above ground level. I do not know the exact circumstances relating to this development. I have determined the subject

appeal on the evidence that is before me and taking into account the fact that the appeal has been lodged solely on the basis of s174(2) (a) of the Act.

Conclusion

15. 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 deemed application.

D Hartley

INSPECTOR