



Appeal Decision

Site visit made on 23 November 2021

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th December 2021

Appeal Ref: APP/C1760/C/21/3280466

3 Meon Road, Romsey SO51 5PU

- 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 David Watkins against an enforcement notice issued by Test Valley Borough Council.
- The enforcement notice was issued on 5 July 2021.
- The breach of planning control as alleged in the notice is without planning permission the erection of a boundary fence greater than 1 m high adjacent to the highway.
- The requirements of the notice are to remove the fence adjacent to the highway.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Ground (a) appeal

Main Issue

1. The main issue in this appeal is the effect of the fence on the character and appearance of the surrounding area.

Reasons

Character and appearance

2. The appeal site contains a semi-detached dwelling. The dwelling occupies a corner plot adjacent to the junction of two residential streets, the side elevation and rear garden being parallel to a short cul-de-sac. There is a maturing evergreen hedge adjacent to part of the site frontage with the cul-de-sac. The enforcement notice attacks a close board timber fence around 1.8 m high supported by concrete posts, running adjacent to the remainder of this frontage and returning at a right angle to enclose the dwelling's rear garden.
3. The site is located on a planned residential estate which probably originated during the mid-20th Century. The surrounding area is largely comprised of semi-detached and terraced dwellings arranged in a regular fashion, occupying similarly-sized plots. Many of the dwellings have open front gardens with substantial areas laid to grass, also containing a variety of maturing planting. These factors all contribute to the generally open, spacious and suburban character and appearance of the surrounding area. Therefore, although the "Look at Romsey-Romsey Town Design Statement" Supplementary Planning

Document (SPD) was published some years ago, the visual qualities of the area still largely reflect the "...open plan gardens with grass or low-growing plants that preserve the openness of the estate" described in that document.

4. The appellant's evidence is that the fence was erected to replace a previous close board fence, which since the late 20th Century had occupied a corresponding location and was of a similar overall height and length. There is no firm evidence which might indicate otherwise, interested local residents supporting the appellant's account of events at the site. Reference in the planning history to a refusal of planning permission in 1987 for 'retention' of a 1.8 m high fence¹ also backs up the appellant's account. The existence of a similar and in all likelihood, lawful, structure at the site immediately prior to erection of the fence is a factor to which I attach significant weight. In such circumstances, it is not unreasonable to compare the fence with what was at the site immediately prior to its erection. The pre-existing structure clearly formed part of the established built fabric of the locality.
5. Had a structure of similar height and length to the fence been erected to enclose an expansive, previously open plot frontage, there is little doubt in my mind that it would have created a stronger sense of enclosure in the street scene, significantly eroding the open and spacious visual qualities of the locality and appearing as an alien feature in the surroundings. Even so, in the context of the fence being erected as a 'like for like' replacement of the pre-existing structure, I am unable to conclude that it has resulted in an appreciably more harsh, urbanised feel in the locality. It is likely that there has been little sense of openness along this part of the site boundaries since around the time the pre-existing structure originated.
6. As a result, the effect of the fence on the visual character of its surroundings is little different to that which existed immediately prior to its erection. Whilst the fence currently has a rather stark appearance, that is due mainly to the 'raw' unweathered timber finish. Painting the sides of the fence visible from the street a colour which respects the adjacent hedge would create a sense of continuity along the affected site boundaries, thereby achieving appropriate visual integration with the setting. This could be secured by a suitable planning condition.
7. The above is all markedly different from the circumstances in the appeal for a proposed 1.8 m high boundary fence on a nearby corner plot, dismissed back in 2013². For similar reasons, circumstances at the site are likely to have changed significantly since the 1980s. It is unrealistic to belatedly try and turn back the clock by preventing replacement of the pre-existing structure with something similar. In any event, it might be argued that the fence represents a visual improvement over the pre-existing structure, which was in all probability in a state of disrepair.
8. Therefore, I find that the fence does not harm the character and appearance of the surrounding area and accords with criterion in Policy E1 of the Test Valley Borough Revised Local Plan (LP) by integrating, respecting and complementing the character of the area in which it is located in terms of layout, appearance and materials. The fence also accords with criteria in LP Policy E2, as it has no detrimental impact on the appearance of the immediate area, it integrates into

¹ Council Ref: TVS.5465.

² Appeal Ref: APP/C1760/D/13/2200146.

the landscape character and has not resulted in the loss of an important local feature. Furthermore, the open plan layout of the area is retained and its character is respected, consistent with guidance in the SPD.

Other matters

9. When compared with the pre-existing structure, the fence is unlikely to create a greater obstruction to the visibility of vehicle drivers emerging from the appellant's driveway, or for pedestrians using the footway. Therefore, I afford the concerns of the Highway Authority limited weight.

Conditions

10. I shall attach a condition requiring a scheme to be submitted to the Council for approval in respect of painting the fence and implementing the approved scheme within the period specified. This condition is necessary for the reasons set out in paragraph 6 above. The condition is drafted in the form set out below because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the implementation of the required scheme, because the development has already taken place. The purpose and effect of the condition is therefore to ensure that the fence granted planning permission may only remain if the appellant complies with its requirements. Therefore, in my view the requirements of the condition are both proportionate and reasonable.

Conclusion

11. The fence accords with the Development Plan and is consistent with the SPD. Consequently, I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (f) does not therefore need to be considered.

Formal Decision

12. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a boundary fence greater than 1 m high adjacent to the highway on land at 3 Meon Road, Romsey SO51 5PU, subject to the condition in the attached Schedule.

Stephen Hawkins

INSPECTOR

CONDITION SCHEDULE

- 1) Unless within 1 month of the date of this decision a scheme for the painting of the sides of the fence visible from the street in a dark green or similar colour is submitted in writing to the Local Planning Authority for approval, and unless the approved scheme is implemented within 1 month of the Local Planning Authority's approval, the fence hereby approved shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 3 months of the date of this decision, the fence shall be removed until such time as a scheme approved by the Local Planning Authority is implemented.

Upon implementation of the approved scheme specified in this condition, the fence shall thereafter be maintained in accordance with that scheme.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.