



Appeal Decision

Site visit made on 30 May 2022

by Thomas Shields MA DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 August 2022

Appeal Refs: APP/V1260/C/21/3288830, 3292808 8 Branksome Dene Road, Bournemouth, BH4 8JW

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (hereafter "the Act").
 - The appeals are made by Mr J Kefford (3288830) and Mrs R Kefford (3292808) against an enforcement notice issued by the Bournemouth, Christchurch and Poole Council.
 - The enforcement notice was issued on 9 November 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the increase in height of the northern side boundary wall and the erection of fencing (approximate position shown in red on the attached plan).
 - The requirements of the notice are:
 - (a) Remove the fence from the northern side boundary;
 - (b) Reduce the height of the northern boundary wall to its original height as shown in the Google Street View images dated July 2019 attached to this notice as Appendix 2;
 - (c) Remove all resultant debris from compliance with (a) and (b) above from the land affected as hatched black.
 - The period for compliance with the requirements is 2 months.
 - Appeal 3288830 is proceeding on the grounds set out in section 174(2)(a) and (g) of the Act. 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.
- Appeal 3292808 proceeds on ground (g) only.
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Decision

1. It is directed that the notice be varied in Section 6 by deleting 2 months and substituting instead 3 months.
2. Subject to the variation 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 Act.

Ground (a) appeal/deemed application for planning permission

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area.

Reasons

4. The section of wall topped with close boarded fencing subject of the notice is that marked in red on the enforcement notice plan, located along most of the northern boundary to the side and rear garden areas of No. 8 Branksome Dene Road and abutting the highway pavement.

5. An earlier appeal (APP/V1260/D/21/3275320) against the Council's refusal of planning permission for *the erection of boundary treatment including fencing to existing boundary wall* was dismissed on 24 August 2021. Although it is a material consideration in this appeal I have nonetheless determined the appeal before me afresh on its merits.
6. No. 8 is a large detached house. Due to the topography of the area it has an elevated position relative to the pavement level along the northern boundary, a relationship consistent with Nos. 2-6 along the same side of the road. Front garden boundaries along both sides of this part of the road, including Nos 2-6, are mainly characterised by low level walls, with or without hedgerows or other shrubbery/vegetation.
7. No.8 differs from its neighbours because of its corner position in the road, resulting in the northern boundary separating the highway from its side and rear garden areas, rather than its front garden. As such, it is argued that without the boundary treatment currently in place the side and rear garden areas would have no privacy or amenity value and would lack an appropriate level of security.
8. Due to the substantial height and length of the combined wall and fencing it is prominently visible in short and longer range views. I find it to be a strikingly dominant and jarring feature in the contextual street scene character of low level walls and vegetation previously described. Also, contrary to the appellant's view, I find it does result in the *fortress-like* appearance referred to in the Council's Design Guide¹ for pedestrians passing by the property. Overall, it results in significant harm to the character and appearance of the area.
9. Reference is made to boundary treatments at other properties and to other appeal decisions, some of which I also viewed during my visit to the appeal site and the surrounding area. However, none of these boundary treatments were identical in terms of their combined height and length, or context, and do not result in the level of harm to the character and appearance of the area in which they are located, as I have found to be so in this case. Consequently, they do not add any significant weight in support of allowing the appeal.
10. I have considered whether the development could be mitigated through the imposition of planning conditions. However, the position of the fencing above the wall leaves no room for external planting to soften its appearance, and painting or staining would not overcome its dominating presence in the street scene.
11. In order to achieve an acceptable level of privacy and security to the property's garden, I accept that some form of boundary treatment, of lower height and potentially with external planting, might be appropriate. Such an alternative scheme should be subject of discussion with the Council in the first instance. However, the current scheme is unacceptable for the reasons I have set out.

Conclusion on ground(a)/deemed application for planning permission

12. To conclude, the development carried out is not well designed or of a high quality. It fails to respect the site and surroundings in terms of its siting, scale and character and fails to contribute positively to the appearance of the public realm. As such, it conflicts with the requirements of Policy CS41 of the

¹ Residential Extensions: A Design Guide for Householders (2008)

Bournemouth Local Plan: Core Strategy (2012). For the same reasons it does not amount to sustainable development overall, thereby in conflict with the provisions of the National Planning Policy Framework (2021).

13. The appeal on ground (a) therefore fails.

The appeals on ground (g)

14. The ground of appeal is that the period of time for compliance with the enforcement notice requirements falls short of what should reasonably be allowed. The notice requires compliance within 2 months. The appellant seeks a period of 4 to 5 months.
15. Contrary to the Council's suggestion I take no account of the time that has already elapsed prior to this appeal Decision. That is because the appeal includes ground (a) and so the question of whether any remedial action would be required cannot be known until the appeal is determined. Hence it is not unreasonable for appellants to await the outcome of an appeal before committing themselves to arrangements for undertaking remedial works.
16. Nonetheless, I am mindful that the harm resulting from the breach of planning control should now be remedied as soon as possible.
17. I accept that securing and scheduling suitable contractors and completion of the works may take longer than 2 months. However, 4 to 5 months seems an unduly long period of time and has not been justified.
18. In light of all the circumstances I consider on balance that 3 months would be more reasonable.
19. The appeal on ground (g) succeeds to this limited extent and I have varied the notice accordingly.

Thomas Shields

INSPECTOR