
Appeals Decisions

Site visit made on 5 September 2022

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 7 October 2022

Appeal A: Ref: APP/N4720/W/22/3303042
14 Plantation Gardens, Alwoodley, Leeds LS17 8RY

- Appeal A is made by Manoj Bhura under section 78 of the Town and Country Planning Act 1990 against a refusal by Leeds City Council to grant planning permission.
 - The application Ref 22/02891/FU, dated 21 April 2022, was refused by notice dated 16 June 2022.
 - The development proposed is "Erection of new boundary wall to dwellinghouse".
-

Appeal B: Ref: APP/N4720/C/22/3298648
Land at 14 Plantation Gardens, Alwoodley, Leeds LS17 8RY

- Appeal B is made by Manoj Bhura under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: 21/00053/UHD3) issued by Leeds City Council on 12 April 2022.
 - The breach of planning control alleged in the notice is "the erection of a wall with pillars that exceeds one metre in height, located adjacent to a highway used by vehicular traffic which exceeds the height permitted under Class A, part 2 of schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended)".
 - The requirements of the notice are as follows: -
 - "To either
 - A) Dismantle the wall and pillars and remove the resultant materials and debris from the Land.
 - or
 - B) Reduce the wall and pillars fronting the highway to a height of one metre or less above ground level and remove the resultant materials and debris from the Land."
 - The period for compliance with these requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c) and (g) and an application for planning permission is deemed to have been made by section 177(5) in respect of the matters stated in the notice as constituting a breach of planning control.
-

Decisions

Appeal A: Ref: APP/N4720/W/22/3303042

1. Appeal A is allowed and planning permission is granted for the erection of a boundary wall to the dwellinghouse at 14 Plantation Gardens, Alwoodley, Leeds LS17 8RY in accordance with the terms of the application reference 22/02891/FU dated 21 April 2022 and the plans submitted with it (with the
-

exception of the gates shown on the plans), subject to the condition that the wall shall be erected in accordance with the approved plan MB01-04 PL02 dated 18.04.22. (Reason for the condition: to avoid doubt).

Appeal B: Ref: APP/N4720/C/22/3298648

2. It is directed that the enforcement notice be varied by replacing "Three months" in paragraph 6 by "Nine months".
3. Subject to this direction, Appeal B is dismissed, the enforcement notice is upheld as varied and planning permission is refused on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990.

Reasons for the decisions

Appeal A

4. Works to build the wall progressed until they stopped when the enforcement notice in Appeal B was served. The main issue in Appeal A concerns the effect that the wall will have on the character of the area and the street scene when it has been completed as proposed in the application.
5. 14 Plantation Gardens is a bungalow at the corner of Plantation Gardens and High Ash Avenue. The wall fronting Plantation Gardens and along the first part of its return along High Ash Gardens will be 1m high and topped with wrought iron work 0.5m high between pillars 1.75m high; there will be two gaps between these pillars for vehicular access (the description on the application form does not include gates). Along the remainder of the return, where the wall will be next to the side and rear garden of the property, it will be 1.6m high and topped with wrought iron work 0.2m high between pillars 2m high. The wall and pillars will all be rendered and painted cream to match the bungalow; all the wrought iron work will be painted black.
6. The appraisal in the Chief Planning Officer's report, on which the Council rely in Appeal A, focusses on Policy P10 'Design' of the Leeds Core Strategy and Policy HDG1 'Design and appearance' of the Leeds Householder Design Guide Supplementary Planning Document.
 - Policy P10 is a design policy dealing with all new development proposals. It states that alterations to existing development should have a good design that is appropriate to their location, scale and function and should respect and enhance existing streets according to the particular local distinctiveness and wider setting of the place. It adds that proposals will be supported where their size, scale, design and layout are appropriate to their context and respect the character and quality of the streets and spaces that make up the public realm and the wider locality.
 - Policy HDG1 advises that all residential alterations should respect the character and appearance of their locality and that particular attention should be paid to boundary treatments. It indicates that alterations which harm the character and appearance of the locality will be resisted.
 - The report acknowledges that the wall will provide extra privacy and security for the property and that it will not raise any residential amenity concerns,

but it reaches a conclusion on balance that the design and character of the wall will be contrary to planning policies.

7. The 'Representations received' section of the report states that five letters were received about the application. The Parish Council objected to the appearance of the unfinished wall; one nearby resident objected to the proposed height and appearance of the side wall but had no objection to the wall at its current height with 'tasteful ironwork' between the pillars as shown on the application plan; three neighbours on the opposite side of Plantation Gardens supported the proposed wall, commenting on its beauty and good taste and the security and privacy it will provide for the property.
8. The main points made by the appellant in support of the wall are, in summary:
 - The boundary with High Ash Avenue next to the side and rear garden was previously protected by wooden fence panels 6ft high, which had to be replaced because they were in disrepair.
 - A wall of the height proposed is needed for privacy and security reasons.
 - The Council's consideration of the street scene is too limited in the distance from the property that it takes into account.
 - The wall takes reference from and is influenced by the designs of other boundary features in the wider area, images of which have been supplied. The wall has been modelled on the one that exists at the corner of High Ash Avenue and High Ash Drive.
9. I inspected the immediate surroundings and the wider area. There is a variety of boundary treatment in this locality, ranging from little or none to hedges, fences and walls of various heights and combinations. The street scene has no specific characteristic or appearance that calls for particular protection in order to comply with planning policies. High boundary treatments exist here where they are needed to provide privacy and security: examples of this are at the corner plots on both sides of the junction between Plantation Gardens and Wigton Lane; at the corner plot at the junction of High Ash Avenue and Barfield Grove; at the corner plot at the junction of High Ash Avenue and High Ash Drive referred to by the appellant, which has a similar wall, pillars and wrought iron work to his proposal; and in the many walls higher than 1m that have been erected on the nearby Wigton Lane frontage.
10. There will, however, be nothing comparable to the wall in its immediate vicinity and it will be noticeable, mainly because of its length and its prominence at a road junction. A solid feature of the height proposed is necessary as a replacement for the fence that previously protected the privacy and security of the side and rear gardens. The incorporation of the wrought-iron work in the overall design of the wall, the styling of the pillars and the rendering and finishing proposed are all features that will enhance the wall's appearance. Taking everything into account, I do not consider that the wall will be inappropriate within the meaning of Policy P10 or cause harm as defined in Policy HDG1; this is a conclusion which those residents in Plantation Gardens who have made representations clearly agree with.

11. Planning permission has therefore been granted for the wall. It has not been suggested that any planning conditions should be imposed in this event and I do not consider that any are needed apart from the usual condition requiring compliance with the approved plans.

Appeal B

Grounds (b) and (c)

12. It is not disputed that a wall with pillars has been erected and that, as it stands, its height in parts exceeds the limit of 1m quoted in the notice; it therefore requires planning permission. The appeals on grounds b) and c) cannot succeed in these circumstances.

Ground (a)

13. The enforcement notice was issued on 12 April 2022, after construction of the wall with pillars had started but before the intended scheme of work had been completed. No further work has taken place since then. The deemed planning application in Appeal B relates to the development as it stood when the notice was issued.
14. The wall with pillars in its incomplete state lacks the rendering, matching colouring and wrought-iron work that will be features of the finished work approved in Appeal A. In its existing state, it is detrimental to the street scene and contrary to planning policies. The appeal on ground (a) has not succeeded and planning permission to retain the wall as it stands has been refused.

Ground (g)

15. The appellant requested an extension of the compliance period to 6 months at a time when he expected to be out of the country. Under normal circumstances the three months' period allowed by the notice to demolish or reduce the height of the wall and pillars should be long enough for the work to be carried out. Following the success of Appeal A, however, more time should be allowed before the requirements of the notice come into effect. A reasonable period would be 9 months and the notice has been varied accordingly. The appeal has succeeded under ground (g) to this extent

Informative

16. Although Appeal B has been dismissed and the notice has been upheld for the reasons set out above, the parties' attention is drawn to the provisions of section 180 that apply following the grant of planning permission for the development in Appeal A. When it has been carried out in accordance with the terms of this permission, the development authorised by the permission will incorporate the development described in the notice. Section 180 provides that where, after an enforcement notice has been served, planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as it is inconsistent with that permission.

D.A.Hainsworth

INSPECTOR