
Appeal Decision

Site visit made on 28 November 2022

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2022

Appeal Ref: APP/J0405/C/21/3284318

Land at 9 Broughton Avenue, Aylesbury, Buckinghamshire HP20 1NN

- 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 Ian Young against an enforcement notice issued by Buckinghamshire Council.
 - The enforcement notice was issued on 16 September 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission the erection of a boundary front wall with fence panels adjacent to the highway in excess of 1m.
 - The requirements of the notice are
 - Permanently remove (demolish) the wall and fence (outlined in blue on the attached Plan 2) from the Land and ensure all materials used in its construction are removed from the Land.
 - Remove any debris or materials from the Land (Outlined in red on the attached Plan 1) that comes as a result of complying with Step 1 of this notice.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds 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 as amended.
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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.

Appeal on ground (a), deemed planning application

Main Issue

2. The main issue in this case is the effect on the character and appearance of the area.

Reasons

Character and appearance

3. The appeal premises is situated in a residential area which has a distinct local character. Broughton Avenue, in the vicinity of the appeal site, is characterised by semi-detached dwellings which are set back from the road with modest front gardens and driveways enclosed by low brick walls with some hedgerows and garden planting. The deep footpath with areas of grass verge, together with

the low front walls and garden landscaping give the street a spacious and verdant character.

4. The boundary wall has been constructed in a prominent location, extending along the side and partially across the front of the appeal premises which is situated on the corner of Barnsbury Avenue. It has been constructed in red brick with a blue brick detail and fence panels inserted between the brick piers. Its height, materials and design have resulted in a dominant structure which has a harsh and stark appearance. Moreover, its significant height, length and position on a prominent corner, adjacent to the footway, presents a harsh enclosed frontage to passers-by which contrasts markedly with the more open and verdant character of much of the surrounding area.
5. I appreciate that the previous hedgerow was overgrown and of a similar height to the unauthorised means of enclosure. However, its softer appearance was more reflective of the pattern of development and verdant character of the surrounding properties. With proper maintenance the hedge would not have obstructed the pavement or visibility. The design, including combination of materials and height of the unauthorised boundary wall is visually incongruous in this prominent location and has a significant and harmful effect on the character and appearance of the area.
6. I conclude that the unauthorised development has a harmful effect on the character and appearance of the surrounding area. It conflicts with the development plan and with Policy BE2 of the Vale of Aylesbury Local Plan, 2021 which requires all new development to respect and complement, amongst other things, the natural qualities and features of the area, and local distinctiveness and vernacular character of the locality, in terms of ordering, form, proportions, architectural detailing and materials.

Other Matters

7. I appreciate that when he constructed the wall the appellant was not aware that he required planning permission for it. I have also had regard to the significant support received from the local community, including the petition. However, for the reasons set out above I have found that the unauthorised development has a harmful effect on the character and appearance of the surrounding area and conflicts with the development plan. Those letters of support do not outweigh that harm.
8. My attention has been drawn to other developments in the wider area that have involved alterations to boundary treatments. However, except for No 55A Broughton Avenue, those other sites are some distance from the appeal site and do not form part of its immediate context. I noted on my site visit that No 55A has erected a high boundary fence along its front and side boundary also on a prominent corner. I do not know the exact planning circumstances of that fence, however, it also has a harmful effect on the character and appearance of the area and is not therefore a precedent that should be repeated. I therefore give this consideration limited weight.
9. I note that the appellant regards the removal of the wall/fence to be excessive. However, the Council issued the notice after their decision to refuse planning permission for it in October 2019 had been upheld on appeal in May 2020¹.

¹ Appeal Ref: APP/J0405/D/19/3242627

The appellant does not give any reasons why the removal of the wall/fence would be excessive and no appeal on ground (f) has been made. Only its removal as required by the notice would remedy the breach of planning control.

Conclusion

10. 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 for the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Elizabeth Pleasant

INSPECTOR