



Appeal Decision

Site visit made on 28 November 2022

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

an Inspector appointed by the Secretary of State

Decision date: 13 January 2023

Appeal Ref: APP/V1260/C/22/3302569

225 Fairmile Road, CHRISTCHURCH, BH23 2LG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mrs Allen against an enforcement notice issued by Bournemouth Christchurch and Poole Council.
 - The notice, was issued on 14 June 2022.
 - The breach of planning control as alleged in the notice is, in the approximate position marked with blue line on the attached plan, without planning permission the erection of a means of enclosure, access gate, including all support posts and fittings over a height of one (1) metre, adjacent to a highway used by vehicle traffic.
 - The requirements of the notice are :
 - a) The reduction in height of the close boarded fencing, including all respective posts, cross rails, fixtures and fittings from the approximate position indicated by the solid blue line on the attached plan, to a height not exceeding one (1) metre when measured from the existing ground level;
 - b) Reduce the gate, and all respective supports to one (1) metre when measured from the existing ground level;
 - c) Ensure all the resulting materials from the compliance with a) and b) above are removed from the land affected.
- OR
- d) Carry out remedial works so that the means of enclosure where necessary is either demolished, removed or altered so as to fully accord with the terms (including compliance with all the imposed planning conditions) of planning permission reference 8/22/0087/HOU, granted on 31 March 2022 and the relevant details shown on plan reference FB8068/100, Revision D, dated October 2021, as indicated on the plans as 'proposed CBF' (Close Boarded Fence) and 'Existing gate to be lowered' (all documents have been attached at Appendix A) to the notice.
 - e) Following compliance with requirement d) above, ensure all the resulting materials from the works are removed from the land affected.
- The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) 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.

Decision

1. The appeal fails, the enforcement notice is upheld and planning permission is refused.

Reasons

2. Ground (a)

3. The main issues are the effect on the character and appearance of the area and the effect on highway safety.

Character and Appearance

4. The development plan includes the Christchurch and East Dorset Local Plan, Part 1 Core strategy [LP]. LP Policy HE2 relates to the design of new development. It requires design of a high quality related to the area's local distinctiveness. Development will be permitted if it is compatible with or improves its surroundings.
5. LP Policy KS11 relates to transport and development. It notes that development must be designed to provide safe access to the existing transport network.
6. The area has a mixture of boundary treatments along Fairmile Road and Suffolk Avenue. However, the majority are not high boundaries. There are a number of high boundaries, but many of these are formed by hedges that improve and add to the verdant nature of the area. There are a few other boundaries that are higher than 1m and formed of timber, but these are limited in number.
7. The fence that has been constructed has a boarded lower section with trellis above. I consider that this is out of character with the heights of other boundaries in the area and harms its character and appearance. The timber material does not provide a high-quality boundary design, and the greater expanse of it than would be permitted development adds to the harm. The fact that there are a few other tall solid boundary structures is not sufficient justification for this, as it is incongruous with the overall character of lower boundaries, interspersed with some high boundaries mainly with hedging.
8. I appreciate that litter and bottles are thrown over the boundary, but the increased height would not prevent this, and any marginal improvement does not justify the harm to the character and appearance of the area.
9. I note the privacy concerns of the appellant. However, with a front garden onto a street/road there must be some expectation of public oversight. Nevertheless, this is a corner house, so the street and footpath pass close by the rear garden, where some privacy is a reasonable expectation. A low boundary here would, in my opinion, lead to harmful privacy issues. I consider that a higher boundary here would ensure reasonable privacy in the rear garden. However, there is planning permission for higher boundaries in this position, and the enforcement notice allows for its implementation if the appellant wishes. Privacy at the front does not justify the tall boundaries constructed.
10. The boundary conflicts with LP Policy HE2.

Highway Safety

11. I acknowledge that higher boundaries can cause highway safety issues and conflict with LP Policy KS11, but this could be overcome by lowering appropriate sections, and appropriate conditions, so I attach limited weight to this issue. However, I have found the boundary is unacceptable in character and appearance terms.

12. While I have found any harm to highway safety could be resolved with appropriate conditions, because of the harm to character and appearance the appeal fails on ground (a).

13. Ground (f)

14. The matters put forward by the appellant have been considered under ground (a). The requirements of the notice provide an alternative for the appellant to provide a reasonable boundary at the premises, while conserving the character and appearance of the area. These are not excessive or unreasonable given the harm caused by the boundary.

15. The appeal fails under ground (f).

Conclusion

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

Graham Dudley

INSPECTOR