



Appeal Decision

Site visit made on 24 March 2023

by Kim Langford Tejrar LLB (Hons) BSc (Hons) PGDIP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd April 2023

Appeal Ref: APP/A5270/D/22/3310263

41 Kent Avenue, London W13 8BE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr James Thomson against the decision of London Borough of Ealing Council.
 - The application Ref 222656HH, dated 16 June 2022, was refused by notice dated 10 August 2022.
 - The development proposed is 'Replacement of fence with steel and timber fencing (following removal of existing fence and gate)'.
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Procedural Matter

1. The Appellant has drawn attention to the apparent conflict between the wording of the reasons for refusal and an additional paragraph within the Council's decision notice. The addition paragraph implies that the appeal scheme accords with the same policies upon which the appeal was refused. The Appellant is concerned that the decision notice does not reflect a committee decision.
2. The Officer's report is a delegated report, indicating that the matter did not go to a planning committee, and it also contains the same contradiction. It appears several typographical errors occurred in two documents, or paragraph from a template document has been carried through, which is highly unfortunate. However, since the reasons for refusal are clear and precise and the questionable paragraph is merely a decision notice informative, I have been able to determine the appeal.

Decision

3. The appeal is allowed and planning permission is granted for the 'replacement of fence with steel and timber fencing (following removal of existing fence and gate)' at 41 Kent Avenue, London W13 8BE in accordance with the terms of the application, Ref 22656HH, dated 16 June 2022, subject to the following conditions:
 - a) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - b) The development hereby permitted shall be carried out in accordance with the following approved plans; Location Plan P200, Site Plan P202, Existing and Proposed Elevations P204, Existing and Proposed Elevations/ Street Scenes P203, and; Block Plan P201.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the surrounding area.

Reasons

5. The appeal site is a semi-detached house which has been greatly extended. It is situated on Kent Avenue, an attractive suburban residential street. Kent Avenue has a verdant and sylvan character by virtue of street trees and the maturely landscaped, yet modestly sized, front gardens of the properties which line the road. Kent Avenue also has a semi-enclosed character due to the juxtaposition of on-site front car parking and low level front boundary walls and fences, with the enclosing nature of higher hedges and vegetation above.
6. The appeal scheme seeks to replace an existing timber and steel fence and gate which was, according to the Council, constructed without planning permission. The Appellant states that they believed the fence was subject to an extant planning permission, however, neither party has established their position either way in the appeal documents. The proposed fence and gate are similar in style, materials and height to the existing, although with framing to the top to create an open section which would achieve a greater sense of openness than the existing fence.
7. The fence would appear somewhat stark due to the lack of mature vegetation in the appeal site (which has been recently redeveloped to meet the needs of a disabled occupant). However, the open site frontage appears stark in contrast to the rest of the street scene due to the lack of landscaping in any case. In fact, the proposed fence would provide a screen to the hard landscaping the front garden area of the site. The site frontage is not any more prominent than that of the surrounding properties. As such, the proposed fence would be in keeping with the semi-enclosed character of Kent Avenue and the prevalent height of boundary treatments, including hedges. The proposed fence would appear lower and more open than the existing fence and would represent an improvement.
8. For these reasons, the appeal scheme is not out of keeping with the character of the surrounding area and it complies with policies D3 and D4 of the London Plan, adopted 2021, and policies 7.4, 7B, 7C and 7D of the Ealing Development Plan DPD, adopted 2013, as well as the National Planning Policy Framework and the guidance within relevant supplementary planning documents. These policies seek, amongst other things, high quality development which complement an area's character.

Other Considerations

9. The Appellant has referred to the Human Rights Act 1998 (as amended) and the rights of disabled people in particular. The Appellant has also referred to crime rates for the area. These are relevant material considerations to the appeal. However, since I consider the proposed fence to be in keeping with the character and appearance of the area and therefore to comply with policy, there is no need to weigh the protection of such rights and security against any non-compliance with the relevant policies of the development plan.

Conditions

10. The Council has not requested any conditions, presumably because the existing fence is unauthorised. However, as the appeal scheme relates to a fence of a different design, I consider it necessary and reasonable to impose conditions requiring that the development take place in a timely manner, in accordance with the approved plans. .

Conclusion

11. For the reasons set out above, the appeal scheme would accord with the relevant policies of the development plan and no material considerations indicate that the appeal should be determined other than in accordance with the development plan. The appeal is accordingly allowed.

Kim Langford Tejrar

INSPECTOR