
Appeal Decision

Site visit made on 17 May 2024

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

Decision date: 11th June 2024

Appeal Ref: APP/C4235/C/23/3333408
29 Broadway, Cheadle, Stockport SK8 1NQ

- The appeal is made by Amer Rafiq under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: ZLA.PLA012.1282) issued by Stockport Metropolitan Borough Council on 20 October 2023.
 - The breach of planning control alleged in the notice is "the erection of a front boundary wall with railings, gates including gate posts over one metre in height adjacent to a highway used by vehicular traffic".
 - The requirements of the notice are "Reduce the height of the boundary wall, railings, gates and gate pillars so that they do not exceed 1 metre in height".
 - The period for compliance with these requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f). Since the appeal has been brought on ground (a), 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.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990 for development at 29 Broadway, Cheadle, Stockport SK8 1NQ consisting of the erection of a front boundary wall with railings and the erection of front gates including gate posts, all over one metre in height.

Reasons for the decision

The appeal on ground (a) and the deemed planning application

2. The main issues concern the effect of the development on (a) the appearance of the property and the street scene and (b) the level of visibility between drivers of vehicles exiting the property and pedestrians and other drivers.

(a) the effect on the appearance of the property and the street scene

3. The Council's first reason for issuing the notice states:

"The overall scale and height of the front boundary wall and gates are visually oppressive, incongruous and a foreign feature within the streetscene and the solid black gates due to their scale, design and colour, create a fortified character of the property."

4. This reasoning is not justified by what I saw at my inspection of the development and its surroundings nor by the applicable policies. The gates are black but not solid; in any event, the design and colour of gates here are for householders to choose and the requirements of the notice would not change them. A new evergreen hedge has been planted behind the wall and railings. As well as the long-established low walls and hedges in this road, the street scene contains a variety of more modern front boundary walls, gates, pillars and railings, several of which are of a similar height and appearance to No 29's and likewise have an acceptable contemporary design.
5. Furthermore, shortly before this notice was issued the Council granted permission for a similar development at No 49, consisting of a sliding gate, boundary wall, pillars and infill panels, stating that the development complied with the policies. The revised plan for that development indicates that these would be 1.4m high, although the decision notice describes them as being "at 1.5m height". By comparison, the development at No 29 consists of gates 1.5m high, walls and railings to a combined height of 1.55m and pillars 1.7m high. The additional height of these features at No 29 will not be noticeable in the street scene or have a detrimental effect on the appearance of the property.

(b) the effect on the level of visibility

6. I inspected the level of visibility at both the accesses to the property and found that the 1m x 1m pedestrian visibility splay sought by the Council was available at each of them. The provision of two accesses has increased the likelihood that drivers will exit the property in forward gear, which is an improvement to pedestrian safety.
7. I have noted the Highway Engineer's comments about the provision of two accesses causing conflict and confusion for road users. This may be the case where there are two well-used road junctions in close proximity, but it is very unlikely to occur on this residential road where all the properties each have their own accesses and there is a wide footway and grass verge.

Conclusion on ground (a)

8. The development complies with the applicable Development Management Policies and Supplementary Planning Documents. There are insufficient reasons to withhold permission for it. The appeal has therefore succeeded on ground (a) and planning permission has been granted on the deemed application. It has not been suggested that any planning conditions should be imposed in this event and none are needed.

The appeal on ground (f)

9. Following the success of the appeal on ground (a), the enforcement notice has been quashed. Ground (f) no longer falls to be considered.

D.A.Hainsworth

INSPECTOR