



Appeal Decision

Site visit made on 24 June 2024

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19TH JULY 2024

Appeal Ref: APP/P2365/C/24/3339479

43 Granville Park West, Aughton, Ormskirk, L39 5HS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Ms Karen Roberts against an enforcement notice issued by West Lancashire Borough Council.
 - The notice was issued on 25 January 2024.
 - The breach of planning control as alleged in the notice is the erection of a fence, pillars, and gates along the front boundary of the site resulting in harm to the character and appearance of Granville Park Conservation area.
 - The requirements of the notice are to (i) demolish the fence abutting Granville Park West ('fence'), (ii) demolish the stone pillars abutting Granville Park West ('stone pillars'), (iii) remove the gates that allow access into the site from Granville Park West ('gates') and (iv) remove from the site all the material that constituted the fence, the stone pillars, and the gates.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (c) 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.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld, and 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 (c)

2. An appeal on ground (c) is that the alleged breach of planning control (if it occurred) did not constitute a breach of planning control.
3. The evidence is that an article 4(1) direction has been in place for the area since 2017. It removes permitted development rights in respect of the erection, construction, maintenance, improvement or alteration of a gate, fence, wall, or other means of enclosure. The evidence is that the breach of planning control amounts to development and requires planning permission in so far that permitted development rights have been removed from the land.
4. It is also noteworthy that the boundary treatment fronts a highway used by vehicular traffic. Consequently, and, in any event, it is not permitted development given the restrictions in Class A of Part 2 of Scheduled 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as it exceeds one metre in height above ground level.
5. For the above reasons, I conclude that the development constitutes a breach of planning control. Therefore, the ground (c) appeal fails.

Appeal on ground (a) and the deemed planning application

6. An appeal on ground (a) is that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged. I have considered the reason for issuing the enforcement notice and the main issue is whether the development has preserved or enhanced the character or appearance of the Granville Park Conservation Area (CA).
7. The significance of the CA as a whole relates to the large and imposing residential properties set well back from main roads and positioned within spacious and landscaped plots. The CA has a verdant character and includes street trees. There are wide gaps between many of the properties which reveals further landscaped areas. There is a pleasing variety to the design of the dwellinghouses in the area. Boundary treatments are generally understated thereby helping to maintain a green and soft frontage to the street-scene and with the dwellinghouses visible behind. The boundary treatments are either formal in appearance (e.g., mainly low brick walls or railings with a hedge behind) or informal in appearance (e.g., a hedge of a native species). Collectively, these attributes add positively and distinctively to the significance of the CA as a whole.
8. The appeal site falls within part of Granville Park West. This part of the street is experienced as having street trees and grass verges and with many of the properties having frontage boundary treatment which is typical of the CA. The evidence is that prior to the breach of planning control occurring, the frontage boundary treatment included a long hedge, gates with railings attached to brick pillars, and two concrete post and wooden fence panels.
9. As part of my site visit, I was able to see that while there are some walls in the area (including opposite the appeal site), they are generally low in height. Moreover, any railings/gates in the street are generally not solid in appearance and hence the imposing properties and associated landscaping are visible to passers-by. Overall, the frontage boundary treatment is appreciated as having a soft edge to Granville Park West.
10. The fence and gates that are the subject of this appeal are noticeably solid in appearance. Given this, coupled with their height and extent, I find that they depart unacceptably from the softer and greener frontages that are experienced in the rest of Granville Park West. The development has a dominating and jarring impact in the street-scene and fails to assimilate well with the otherwise understated frontage boundary treatments in the area. The overall impact is one where the appeal property is seen as being visually separated from Granville Park West rather than being part and parcel of it.
11. The identified planning harm is compounded owing to the colours and materials used for the gates, fence, and pillars. The boundary treatment materials and colours are not prevalent amongst other boundary treatment in this part of the CA and so this harm adds to the overall deleterious impact.
12. I recognise that some laurel hedge planting has taken place to the front of the appeal fence. In time, and upon reaching maturing, this may help to soften the impact of the harmful development. However, such planting will take some time to reach maturity and, furthermore, is unlikely to endure forever.

Therefore, it cannot be guaranteed that the harmful development will always be screened because of the planting. I do not therefore find that the planting is sufficient to justify allowing the harmful development.

13. The appellant has provided examples of solid gates elsewhere in the area. I do not know the exact circumstances which led to these gates being erected and, in any event, have considered the positive and distinctive attributes that form the significance of the CA as a whole (including Granville Park West). Hence, the existence of a small number of solid gates elsewhere in the CA does not justify allowing development which would not preserve the character and appearance of the CA as a whole.
14. In the context of paragraph 208 of the National Planning Policy Framework 2023 (the Framework), I find that less than substantial harm has been caused to the significance of the CA. I acknowledge the appellant's claim that the boundary treatment has been erected to improve security and privacy. However, in respect of the latter considerations I have very little evidence from the appellant. In any event, there is no evidence to indicate that it would not be possible to improve security and privacy from the provision of a more sensitive and in-keeping form of boundary treatment and which would not harm the CA. To the extent that one might consider improved security and privacy to be 'public' benefits, I do not find that they outweigh the less than substantial harm caused to the CA.
15. For the above reasons, I find that when the breach of planning control is considered as a whole, it does not preserve or enhance the character and appearance of the CA. Consequently, it does not accord with the design, character, appearance, and conservation requirements of policies EN4 and GN3 of the West Lancashire Local Plan DPD 2012-2027, the West Lancashire District Council Supplementary Planning Document Design Guide 2008, or chapters 12 and 16 of the Framework.
16. I conclude that the development does not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, the ground (a) appeal fails.

Conclusion

17. 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).

D Hartley

INSPECTOR