Planning Inspectorate

Appeal Decision

Site visit made on 25 March 2025

by D A Hainsworth LL.B(Hons) FRSA Solicitor

an Inspector appointed by the Secretary of State

Decision date: 15th April 2025

Appeal Ref: APP/W2465/C/23/3330356
10 Heathley Park Drive, Leicester LE3 9EQ

- The appeal is made by Milan Sodha under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: 20204434C) issued by Leicester City Council on 18 September 2023.
- The breaches of planning control alleged in the notice are the construction of a single-storey extension to the side of the property and the construction of a boundary wall to the side and rear of the property.
- The requirements of the notice are as follows: -
  "1. Alter the single storey side extension by reducing the height of the front and side walls, changing the roof pitch, and boundary wall by reducing the height to 2.34m at the corner near to the front and then 2m stepping as per details shown in the plan approved under planning permission 20211535 (Plans 2021/05/148 page 2,3,4 of 6 dated 24/06/2021 attached as appendix 1 [to the notice].
  2. Reduce the height of the rear boundary wall to 2m when measured adjacent to drive and garage at rear of the property and retain the planter at the position as shown on plan 2021/05/148 page 2 of 6 dated 24/06/2021 attached as appendix 1 [to the notice].
  3. Remove all resultant materials from the property as a result of complying with the above steps 1 and 2."
- The period for compliance with these requirements is 4 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (d) and (f). 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 breaches of planning control.

Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990.

Reasons for the decision

Ground (c)

2. The purpose of the appeal on ground (c) is to maintain that the matters stated in the notice do not constitute a breach of planning control. However, the points that the appellant has put forward on this ground all relate to the planning merits of the extension and the wall as built; I have considered these

under ground (a) below. The construction of the extension and the wall are both building operations that require a planning permission because permitted development rights do not exist for a side extension here and the wall is not permitted development because it is adjacent to the highway and exceeds 1m in height. As built, they are a significant departure from the plans approved by planning permission 20211535 because of the height and design of both the extension and the wall. Since planning permission does not exist for them, a breach of planning control has occurred and the appeal on ground (c) has therefore failed.

Ground (d)

3. The purpose of the appeal on ground (d) is to maintain that at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by the matters stated in the notice. In this instance, the time limit for taking enforcement action is four years from the date the extension and the wall were substantially completed.

4. The appellant maintains that the wall was completed in 2017. The Council's evidence demonstrates, however, that the wall that existed in 2017 has since been altered and the extension has since been built. These works were completed during the four-year period preceding the issue of the notice and the appeal on ground (d) has therefore failed.

Ground (a)

5. The purpose of the appeal on ground (a) is to maintain that planning permission should be granted in respect of the matters stated in the notice.

6. The Council state that the extension and the wall, as built, are poorly designed and overly dominant and as a result are out of keeping with the house, the street scene and the surrounding area and are detrimental to visual amenity. In addition, they state that part of the wall which is next to the drive to the garage affects highway safety because it obstructs visibility between motorists using the drive and pedestrians on the footway and drivers on the road. The extension and the wall are in the opinion of the Council contrary to several national and local planning policies.

7. The appellant puts forward a number of reasons why in his opinion planning permission should be granted for the extension and the wall as built.

8. I agree with him that the extension and the wall do not obstruct visibility at the junction of Heathley Park Drive and Duncombe Road. I note that the issue relating to visibility at the drive to the garage has already been dealt with by cutting the wall back to the angle shown on the plan attached to the notice and retaining the planter.

9. As the appellant points out, there are many examples of houses on this estate where there are walls near to the highway. At my visit, I viewed several of these together with him and the Council's representatives.

10. The garden walls on the corner plots on the estate have a regular design, which consists of brick panels about 1.8m high supported by pillars about 2m high. Where the ground slopes the panels and the pillars have been stepped down in stages. The wall at the appellant's house is also on sloping ground, but it is

level at the top and not stepped down, does not have pillars, and has a height of over 2m above ground level at its lowest point rising to more than 2.5m above ground level at its highest point.

11. I took note at my visit of the houses on corner plots that have two-storey side walls adjacent to the side road. As the appellant has pointed out, these are prominent, but they form part of the original comprehensive design and layout of this estate and will have been approved in the context of the appearance of the estate as a whole.

12. I also viewed the house at the junction of Heathley Park Drive and Bramham Close that has box-shaped single-storey extensions on both sides. Unlike the extension at the appellant's house, these are well set back from the roadside. They are also partially screened from view by fencing and trees on Bramham Close. As a result they have less impact on their surroundings than the extension to the appellant's house.

13. The appellant has concerns about security. The house has unfortunately been burgled on three occasions. Having a high side wall here may deter access to the rear of the house but it may also conceal burglars from public view. If the wall is lowered to the extent required by the notice, this situation will not change significantly. There are many other ways of enhancing home security.

14. The appellant has also mentioned that children sat on the wall when it was lower. This is not what I would have expected to happen in the case of a wall of this height and I can only surmise that the children wanted to see what was happening on the other side of the wall, where I noticed that a football goal net has been erected in the garden. This concern has in any event already been dealt with by putting decorative spikes on the top of the wall.

15. As built, the extension and the wall together are a high, bulky and unrelieved rectangular block. I agree with the Council that they are poorly designed. They are starkly unattractive, dominate a prominent corner in the street scene and contrast with the pleasant design of the house. They are out of keeping with and detract from the visual amenity of the estate. As a result, they are in conflict with the national and local planning policies referred to in the notice.

16. The planning permission 20211535 approved a compromise scheme which reduced the unacceptable features of the extension and the wall, as built, to a degree that the Council found to be acceptable. When implemented it will substantially improve the design and appearance of the extension by introducing a hipped roof. It will reduce the impact of the wall by lowering its height overall and by introducing 2m-high panels stepped down in stages. I agree with the Council's support for the compromise scheme and consider that the notice rightly requires it to be carried out.

17. There is nothing in any of the points put forward by the appellant that outweighs the considerations set out above and I have therefore concluded that planning permission should not be granted for the extension or the wall, as built. The appeal on ground (a) has therefore failed.

Ground (f)

18. The purpose of the appeal on ground (f) is to maintain that the steps required by the notice to be taken exceed what is necessary to remedy the breaches of planning control or the injury to amenity caused by the breaches. The points that the appellant has put forward on this ground all relate to the planning merits of the extension and the wall as built and I have considered them under ground (a) above.

19. The Council consider that the harm will be remedied by making the extension and the wall conform to the plans approved by planning permission 20211535 and that no lesser steps could be specified which would achieve that objective. No steps have been put forward by the appellant apart from the retention of the extension and the wall as built, which I have dealt with under ground (a), and I do not consider that there are any. The appeal on ground (f) has therefore failed.

D.A.Hainsworth

INSPECTOR