



Appeal Decision

Site visit made on 8 August 2023

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7TH SEPTEMBER 2023

Appeal Ref: APP/F4410/C/22/3312629

Land at 8 Briar Road, Skellow, Doncaster DN6 8HY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended ("the Act"). The appeal is made by Mr Adeola Doherty, Limestone Properties Ltd against an enforcement notice issued by Doncaster Metropolitan Borough Council.
 - The notice was issued on 27 October 2022.
 - The breach of planning control as alleged in the notice is the Land has without planning permission, the unauthorised development of the erection of a 1.75 metre in height wooden fencing and gate and concrete posts to the front and side boundaries of a residential property adjacent to a highway on the Land in the position as shown coloured blue, 'on the Site Plan attached to the notice'.
 - The requirements of the notice are to: (i) reduce the height of the wooden fencing and gate and concrete posts to no more than 1 metre in height on the Land; or (ii) remove in their entirety from the Land the wooden fencing and gate and concrete posts from the Land; (iii) Upon completion of either (i) or (ii) above to either remove permanently from the Land all the resultant materials and debris arising from compliance with the aforementioned requirements of 'the notice'.
 - The periods for compliance with the requirements are: Steps (i) or (ii) One month; Step (iii) Two months, from the date the notice comes into effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (g) of the Act. 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, and the enforcement notice upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Preliminary Matter

2. The breach of planning control as alleged in the notice is the erection of a 1.75 metre (m) in height wooden fencing and gate and concrete posts as shown on the site plan accompanying the notice. There is no dispute between the parties on the alleged breach of planning control. However, as I saw the 1.75m wooden fencing consists of timber panels supported by the concrete posts and concrete gravel boards with the gate attached to a concrete post and the property. Therefore, for clarity I have taken the concrete gravel boards to be also part of the alleged breach, and I shall refer to the 1.75m wooden fencing, concrete gravel boards and concrete posts together as 'the fence' in the decision.

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

Main Issue

3. The main issue is the effect of the development on the character and appearance of the surrounding area.

Reasons

4. Briar Road is within a predominantly residential area with a mix of semi-detached dwellings constructed of brick and render. Most of the front boundaries to the properties are marked by low picket, timber fencing or brick walls with low level vegetation abutting the boundaries which gives the street a pleasant soft-landscape and of open character and appearance.
5. The appeal site is a semi-detached property and is a house in multiple occupation (HMO). There is an existing low level picket fence and hedgerow to the front boundary with some vegetation growing along the boundary with No.6. The fence is sited behind the picket fence and hedge and the gate is attached to the fence and the property. The position of the gate is adjacent to the driveway belonging to No.10.
6. The fence is of a considerable length and width wrapping around and enclosing the front garden with the attached gate. Given the height, position and prominence, of the fence combined with the attached gate, it forms a large obtrusive and incongruous feature in the street scene which is at odds with the prevailing character and lower height of other enclosures and boundary treatments immediately along Briar Road. This is exacerbated by the stark appearance due to the height, style and finish of the fence and gate. Thus, the development is not sympathetic to the area and results in a detrimental impact on the established character and appearance of the immediate and wider street scene.
7. I saw at the time of the site visit there is a mature hedge to the front of the appeal site and vegetation along the boundary with No.6. However, these and the limited setback from the pavement edge of the fence did little to reduce the views of the fence and gate when viewed along the footpath when approaching from the north. In addition, this existing hedge and vegetation would likely be sparse in density during the winter months so it would not ensure a soft boundary design or that the height of it could be maintained throughout the year. Therefore, resulting in the fence and gate being significantly more prominent when viewed within the street scene.
8. Whilst I note the appellant's circumstances of erecting the fence and gate at the property. I have no substantive evidence to support those concerns that the fence and gate were erected out of necessity to protect the property from criminal damage, anti-social behaviour or trespassing. The matter of criminal activity taking place at the appeal site would be for the relevant judicial authority. Moreover, I am not persuaded that the only option for the appellant and occupiers of the property as a deterrent was to erect the fence and gate.
9. The appellant has also drawn my attention to Policy 47 of the Doncaster Local Plan 2015-2035, (2021) (LP), relating to safe and secure places and paragraph 97 of the National Planning Policy Framework (the Framework). The Council did not refer to these within the notice or in refusing planning

permission¹ for the same development. Even, if I considered that the fence was designed to meet the policy principles and objectives of the Framework it is not without caveat. Policy 47 requires that private spaces are appropriate to the character of the area and security fencing does not contribute to a hostile environment. The Framework seeks achieving well designed places and ensures developments are visually attractive including that development that is not well designed should be refused. As I have identified above the fence and gate causes harm to the character and appearance of the area and is therefore not well designed.

10. For the reasons given above, I conclude the development has caused unacceptable harm to the character and appearance of the surrounding area. It does not accord with Policies 10, 41 and 44 of the LP. Taken together, amongst other matters the policies seek high quality design; respecting and enhancing the character of the locality; and supports development where they respond positively to the context and character of existing areas. Moreover, the development is also contrary to the Framework, chapter 12 which seeks well designed places.

Other Matters

11. The appellant has drawn my attention to other examples of boundary treatments and that there are a small number of other tall fences and hedges within the surrounding area of the appeal site. I do not have full details of those and cannot be sure they are directly comparable to the appeal development. However, those I saw were limited and the existence of these does not justify the development before me. In any event, I have determined the appeal on the basis of the evidence before me and site observations.
12. A representation was received that the development impacts on highway safety. However, I saw that there was an existing dropped kerb to access the driveway at No.10 and the fence was setback from this vehicular access point, albeit limited. I noted there were no restrictions for on street parking along Briar Road. Moreover, it appears from the evidence there have been no concerns from the Council's Highway Officer to the development, and the plan FF-176-5 revision A annotates a 2m x 2m visibility splay. Therefore, the development does not, in my view, cause any detrimental harm to highway safety. Nevertheless, this lack of harm is neutral and does not outweigh the significant harm to the character and appearance of the area.
13. The matter raised concerning the use of the property as an HMO is not the development attacked by the notice, therefore it is not a matter for me to consider under this appeal. Although the development does not cause harm to the living conditions of neighbouring properties this is a neutral matter that weighs neither for nor against the proposal.

Conclusion

14. Therefore, for the reasons given above, I conclude that the appeal under ground (a) should fail and that planning permission should be refused in respect of the DPA in full.

¹ Application reference 22/01378/FUL, refused 22 September 2022

The appeal on ground (g)

15. An appeal under ground (g) is made on the basis that any period specified in the notice in accordance with section 173(9) of the Act falls short of what should reasonably be allowed. The notice requires compliance for either steps (i) or (ii) within one month and for step (iii) within two months, of it coming into effect.
16. The appellant seeks a period of two months for steps (i) and (ii), and three months for step (iii) to comply with the notice. This is stated to be in the context that the property operates as an HMO and the management company requires to investigate alternative arrangements and to ensure the property remains secure. This includes getting quotations and then commissioning suitable trades people to comply with the requirements.
17. The appellant has provided no substantive evidence to support their ground (g) appeal. However, the notice requirements do not impose an overly difficult operation to complete, and I see no reason now why the fence and gate could not be removed or reduced in height within the specified period.
18. Moreover, the reasons why the Council issued the notice are that the unauthorised development is causing significant harm to the character and appearance of the surrounding area and fails to integrate or enhance the qualities of the area. Therefore, it is in the public interest for the breach of planning control to be remedied as soon as reasonably possible. This provides a further reason not to extend the compliance period beyond the current specified period. Accordingly, the appeal on ground (g) fails.

Conclusion

19. 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 Act.

K A Taylor

INSPECTOR