



Appeal Decision

Site visit made on 18 September 2018

by **Stephen Brown MA(Cantab) DipArch RIBA**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 October 2018

Appeal Ref: APP/V2255/C/18/3195127

1 Hales Road, Sittingbourne ME10 1SR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is by Ian Hamill against an enforcement notice issued by Swale Borough Council.
 - The enforcement notice, ref.15/500728/OPDEV(1 Hales Road), was issued on 16 January 2018.
 - The breach of planning control alleged in the notice is without planning permission a fence has been erected, the approximate position of which is marked by crossed lines on the plan attached to the notice, which in the opinion of the Council would require planning permission.
 - The requirements of the notice are to:
 - (i) Remove the fencing shown in its approximate position marked by crossed lines on the plan attached to the notice.
 - (ii) Remove all materials and debris caused in complying with condition (i) from the land.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. The prescribed fees have been paid within the specified period, and the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended fall to be considered.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

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

2. This ground is that planning permission should be granted for the matters alleged in the enforcement notice. In that regard I consider the main issue in the case to be the effect of the development on the character and appearance of the appeal site and the area in the vicinity.
3. I saw that Hales Road is mainly developed with semi-detached chalet bungalows on reasonably generous plots, set back from the road behind front gardens. The appeal property stands on the oblique corner of a fork in Hales Road, more or less opposite a grassy triangle with mature trees.
4. The front gardens of the properties, including no. 1, are for the most part open on the street frontage with lawns and hardstandings. They are generally extremely well-kept, with neatly cut lawns, trimmed hedges, and a great

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variety of ornamental shrubs and other planting. There is little separation of the front gardens from the street, except by means of low walls - often no more than about 300mm high - and shrub planting. The character overall is spacious and verdant.

5. The fence subject of this appeal is approximately 1.6 metres high, comprising timber panels between concrete posts. The panels sit on a pre-cast concrete plinth about 300mm high, the panels themselves are about 1 metre high and are surmounted by a timber trellis. The fence extends from the driveway at the northern end of the plot, to a line on the southern side of a relatively recently built projecting bay on the western side of the house. I should make clear at this point, that the enforcement notice is concerned with the part of the fence along the road frontage, and not the parts alongside the driveway, and returning alongside the pathway to the front door.
6. I consider the fence is an abruptly intrusive element into the street scene. It closes off a large part of the front garden of the appeal property from the surrounding area, and interrupts what would otherwise be an integral part of open and verdant surroundings of the buildings in this part of Hales Road. Furthermore, although the concrete posts and plinths may be durable, and of good quality, they have a utilitarian/industrial appearance that is out of place in the context of the informal and naturalistic planting of the surroundings.
7. I appreciate that the appellant may have erected the fence to protect privacy in a ground floor room in the above-mentioned projecting bay. I understand this is used as a bedroom by the appellant who is severely disabled. However, other means could be used to achieve such protection – and I note that there are substantial shrubs/trees behind part of the fence that might already achieve that objective to some extent - as might other boundary treatments. As regards providing a secure enclosure for the appellant's dog, it is by no means necessary to put up a mostly opaque timber and concrete fence to achieve this.
8. I conclude on the main issue that the development causes significant harm to the character and appearance of the appeal site and the area in the vicinity. The development does not accord with the aims of the development plan, notably with respect to Policies C4 and DM14 of The Swale Borough Local Plan of 2017, which seek to ensure high quality design – including making attractive places – and include aims that development should reflect the positive characteristics of the site and locality. The appeal on ground (a) therefore fails, and I intend to refuse planning permission on the deemed application.

The appeal on ground (f)

9. This ground is that the requirements of the enforcement notice are excessive, and that lesser steps would overcome the Council's objections. As noted above the extent of fence required to be removed is that along the road frontage. Furthermore, the appellant rejects the option of reducing the height of the fence to 1 metre, on the basis that it could appear more unsightly than at present. The Council essentially concur with this view, and are of the opinion that the design and construction of the fence would not lend itself to height reduction without removal and re-building.

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10. It appears to me that entire removal of the section of fence along the road frontage would be necessary in order to mitigate the harm caused. The appeal on ground (f) therefore fails.

Conclusions

11. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Stephen Brown

INSPECTOR