



Appeal Decision

Site visit made on 10 August 2021

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th September 2021

Appeal Ref: APP/D1780/C/21/3276078

Land at 12 Russell Place, Southampton SO17 1NU

- 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 made by Mr Mohammed Naeem Ahmed against an enforcement notice issued by Southampton City Council.
- The enforcement notice was issued on 28 April 2021.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a front boundary brick wall.
- The requirements of the notice are: (i) Demolish the front boundary brick wall; and (ii) Remove all resulting materials from the land.
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

Procedural Matter

1. The revised National Planning Policy Framework (the Framework) came into force during the course of the appeal. The main parties have been given the opportunity to comment on the implications of the revised Framework for the appeal and I have also taken it into account in my decision.

Ground (a) appeal

Background

2. The enforcement notice attacks a wall erected along the front boundary of the appeal property, adjacent to the pavement. The wall is constructed in red brick with blue brick detailing. The wall varies from around 1.4 m to 1.8 m in height due to its concave scalloped profile, with columns either side of the vehicular access being around 2.1 m high.
3. Planning permission for the wall has twice been refused by the Council and an appeal was dismissed in June 2019¹. Compared with the previous appeal scheme, the deemed planning application arising from the ground (a) appeal proposes a slight reduction in the height of the wall and that of the gate piers together with the planting of a hedge. At s177(1)(a), the 1990 Act provides for the granting of planning permission in respect of all or part of the alleged breach. Therefore, in determining this appeal I can consider the planning merits of the wall as modified.

¹ Appeal Ref: APP/D1780/D/19/3225110.

Main Issue

4. The main issue in this appeal is whether the modified wall would preserve or enhance the character or appearance of the Portwood Residents' Gardens Conservation Area (CA).

Reasons

5. In my view, the significance of the CA derives in part from it being an early example of the Garden City Movement, consisting of a variety of often architect designed dwellings occupying generous plots, arranged around communal gardens. Mature, well-planted residential gardens along with wide tree-lined streets make an important contribution to the leafy and spacious suburban feel. Frontage boundaries, which generally consist of unobtrusive low walls or fences affording views to maturing planting in the gardens beyond, are also an important factor in this regard. These findings are based on observations made during my visit, together with the Council's CA Appraisal and Management Plan (CAMP) and are consistent with those of the Inspector in the previous appeal.
6. The property contains a substantial detached dwelling which originated during the early 20th Century. There is a preponderance of substantial dwellings occupying generous plots with maturing gardens in the vicinity. By and large, the frontage boundary treatments are low and of varying materials. This reflects the CAMP, which states that front boundaries are often low so that front gardens in effect form part of the street scene. Therefore, the property environs generally exhibit visual qualities consistent with the character and appearance of the CA, contributing positively to the significance of the designated heritage asset.
7. The appellant supplied photographs of various taller front walls, gate piers, gates and fences in the CA. During my visit, I viewed most of the examples they had referred to. More than one of the examples relates to the side frontage of a corner plot, not the front boundary. In addition, for the most part those structures are isolated and have a recessive appearance on account of their likely considerable age and weathered finishes, together with the presence of adjacent maturing planting. Therefore, none of the examples referred to alter my overall impressions of the character and appearance of the CA and its significance set out above. In any event, without further details I cannot be certain that the circumstances in which those enclosures originated were similar to the wall in this appeal. For instance, it was not suggested that any of the structures referred to post-dated designation of the CA and benefitted from planning permission.
8. In terms of its overall height and general appearance, the wall as modified, including the gate piers, would be similar to the pre-existing wall along the property frontage, which I am given to understand was demolished following the removal of a tree for public safety reasons. However, the modified wall and piers would remain significantly and appreciably taller than most other frontage boundary treatments in the vicinity. Although the scalloped profile might be similar to that of historic frontage fencing in the CA, the available evidence indicates that such enclosures were generally much lower, a similar profile generally being found in the surrounding area on timber fences appreciably lower than the wall. As a result, the profile does not assist in integrating the wall visually with its surroundings. The red brick finish is a

similar colour to the pre-existing brick wall boundary between the property and 10 Russell Place (No 10) and similar to the external walls of that property. However, this colour has resulted in an assertive finish to the wall which contrasts strongly with the often more muted colours of front boundaries in the locality and the wider CA. The decorative detailing, similarly uncharacteristic of the area, would also remain.

9. The proposed hedge planting is likely to only partly screen or break up the profile of the wall and so would not ameliorate its adverse visual effects to any significant extent. Such planting would also take a considerable time to reach a level of maturity where it had any appreciable effect. The wall would still be clearly visible, not only from Russell Place but also from Brookvale Road. Moreover, retention of the planting could not reasonably be secured in the medium to long term. Consequently, imposing a planning condition to secure landscape planting would not overcome the significant visual harm identified above. Re-installing the metal gates would also not offset the visual impact of the wall.
10. The pre-existing boundary wall between the property and No 10 is set back from the frontage, so whilst it resembles the wall in terms of its brick finishes and profile, the visual consequences are dissimilar. Any sense of integration in views of the two walls does not significantly offset the adverse visual consequences set out above. As a result, from this perspective also the external materials of the wall do not assist in its assimilation with the surroundings.
11. Due to all of the above factors, the modified wall would still be viewed as an unduly harsh and obtrusive feature in the street scene and would result in an appreciably more enclosed, built-up feel in the immediate and wider environs. This would be entirely at odds with the leafy and spacious suburban qualities of the surroundings identified above, contributing to an appreciable erosion of the established character and appearance of the area.
12. There would be a clear resemblance between the modified wall and the pre-existing wall in terms of their height and general appearance. However, the origins of the pre-existing wall are uncertain. Although the appellant put the origins of the pre-existing wall as the mid-twentieth century, some interested local residents stated that it had replaced a timber fence around thirty years ago. From the available evidence it seems likely that the pre-existing wall was erected much later than the property, but in any event prior to designation of the CA. The overall height and profile of the pre-existing wall did not respect or reflect that of other frontage boundary treatments in the vicinity. The CAMP, which points out that occasional dominant high front walls detract from the spacious green character of the area, reinforces my views in this respect. Similarity between the pre-existing wall and the modified wall does not mean that the character or appearance of the CA is preserved. Replacing a structure which did not contribute positively to its surroundings with development sharing similar qualities cannot sensibly be regarded as preserving the character or appearance of the CA. Such an argument could be repeated, undermining the purposes of CA designation.
13. I have taken account of the representations made by interested local residents and the Highfield Residents' Association. These showed some support from local residents for the wall, as well as objections to its retention. Nevertheless,

for the above reasons the evidence advanced by the appellant does not warrant reaching a different conclusion to the previous appeal regarding the failure to preserve or enhance the character or appearance of the CA.

14. The modified wall would cause less than substantial harm to the significance of the designated heritage asset. The revised Framework advises that such harm should be weighed against any public benefits. It also advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The planting proposed would not be a public benefit. There is no sound reason to depart from the previous Inspector's conclusion that public benefits would not outweigh the harm to the significance of the heritage asset.
15. As the modified wall would not preserve or enhance the character or appearance of the CA, there is failure to accord with Policy HE1 of the City of Southampton Local Plan Review as well as Policy CS 14 of the Council's Core Strategy. There is also conflict with Policy PRG 7 of the CAMP, which requires replacement walls or fences to be in a style and materials appropriate to the individual property and the CA. Moreover, the failure to conserve and enhance the historic environment is inconsistent with the revised Framework.

Conclusion

16. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant permission on the deemed application.

Formal Decision

17. 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 Act as amended.

Stephen Hawkins

INSPECTOR