



Appeal Decisions

Site visit made on 27 August 2009

by **Martin Joyce** DipTP MRTPI

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

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Decision date:
9 September 2009

Appeal Refs: APP/H0738/C/09/2097518 & 2097519 76 Holburn Park, Stockton-on-Tees TS19 8BJ

- The appeals are made under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr P and Mrs L Hill against an enforcement notice issued by the Stockton-on-Tees Borough Council.
- The Council's reference is 16.0.1.44.
- The notice was issued on 12 January 2009.
- The breach of planning control as alleged in the notice is the erection of a brick wall to the front and side boundaries of the land without the required planning permission.
- The requirements of the notice are to:
 - (i) Remove from the land the front and side boundary walls and brick pillars as indicated coloured blue on Plan B attached to the notice;
 - (ii) Remove from the land all the resultant debris/materials associated with removal of the unauthorised front and side boundary walls; and,
 - (iii) Reinstate the area of the land from which the walls and debris have been removed in accordance with steps (i) and (ii) above.
- The period for compliance with the requirements is two months.
- The appeals are proceeding on the grounds set out in Section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. The deemed applications for planning permission also fall to be considered.

Decision

1. I dismiss the appeals and uphold the enforcement notice. I refuse to grant planning permission on the applications deemed to have been made under Section 177(5) of the 1990 Act as amended.

THE APPEALS ON GROUND (a)

Main Issue

2. The main issue in these appeals is the effect of the development on the street scene in this part of Holburn Park, and on the wider character and appearance of the surrounding housing estate.

Reasoning

3. Holburn Park is a modern housing estate of about 80 houses built following a grant of planning permission in 1993. It is laid out in a series of culs-de-sac with a significant amount of soft landscaping but, essentially, with an "open plan" design aimed at ensuring a spacious and attractive environment for residents of, and visitors to, the area. To this end a condition on the original planning permission removed normal "permitted development" rights under The Town and Country Planning (General Permitted Development) Order 1995

as amended for the erection of garden fences, walls and any other means of enclosure between the highway and any wall of a dwelling which fronts onto that highway.

4. This condition has been breached by the appeal development in that brick walls have been built along the front boundary, to the rear of the footpath, and the side boundary, from the house along the common boundary with No 74 to the north-east, without the approval of the Council. Those walls are approximately 0.7m in height, with piers, topped by coping stones, of a total height of about 1.7m.
5. The position of the appeal property on a corner plot, and the juxtaposition of the unauthorised front wall to higher walls that enclose the private rear garden area of No 78, limits the impact of the development to some degree. However, the solid enclosure that has been created has the effect of partitioning the front garden of the appeal house from the remainder of the street and this is both jarring and visually discordant, as well as detracting from the open plan concept of the estate, contrary to Policy GP1 of the Council's adopted Unitary Development Plan.
6. I saw that a number of other properties have varying forms of enclosure to the front, although the majority are of low hedges or, at the most, minimal edging strips in front of cultivated garden features. I saw only one other brick wall, at No 44, but I understand that this does not have planning permission and is being investigated by the Council. Additionally, fences have been erected along the drive boundaries between Nos 64 and 66, and 68 and 70, also without permission. These unauthorised developments cannot form a precedent, therefore, for the appeal development. Conversely, however, sanctioning of the brick walls would, in my view, be likely to encourage others to seek to similarly enclose their front gardens with a cumulative loss of openness and potentially severe harm to the spacious feel of the estate. Indeed I note that a colleague formed a similar view when he determined an appeal against a retrospective planning application to retain the walls in November 2008 (CLG Ref: APP/H0738/A/08/2080556).
7. I appreciate that care has been taken to build the walls in materials that match the main house, and I note the concern that the front garden may become untidy and attract litter and dog fouling if the walls have to be removed. However other legislation is available to combat the latter problems and I saw no evidence of such untidiness elsewhere on the estate; rather most property owners appear to have taken great care over the appearance of their front gardens with a variety of attractive planting adding to the general landscaping of the estate.
8. My conclusion on the main issue is that the development materially harms the street scene in this part of Holburn Park, and also the wider character and appearance of the surrounding housing estate, contrary to the relevant provisions of the Development Plan for this area. The appeals on ground (a) fail and planning permission will not be granted.

THE APPEALS ON GROUND (g)

9. The appellants contend that two months is an insufficient period to dismantle and remove the walls having regard to the need to minimise future costs in the

light of their current employment situation, and because the work is likely to be tiring. I do not, however, consider that these reasons justify an extension of the period for compliance given the visual harm that is being created. The demolition of the walls is a relatively easy operation, as would be the removal of the resultant debris, and reinstatement is unlikely to be as complicated as suggested by the appellants. In any event, the Council do have powers, under Section 173A(1)(b) of the Act, to extend the period for compliance and they may well consider using these provisions in the event of particularly compelling personal circumstances. The appeals on ground (g) fail.

Other Matters

10. All other matters raised in the written representations have been taken into account, but they do not outweigh the conclusions reached on the main grounds and issues of these appeals.

Martin Joyce

INSPECTOR