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## Appeal Decision

Site visit made on 22 October 2019

**by Timothy C King BA (Hons) MRTPI**

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

**Decision date: 22 November 2019**

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### **Appeal Ref: APP/B5480/C/18/3219271 245a Mawney Road, Romford RM7 8DJ**

- 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 Olufemi Joseph Banjo against an enforcement notice issued by the Council of the London Borough of Havering.
  - The enforcement notice was issued on 23 November 2018.
  - The breach of planning control as alleged in the notice is: Without planning permission, the erection of metal railings and gate, to the perimeter of the front garden, with a height over 1.0 metre.
  - The requirements of the notice are to:
    - (i) Remove entirely or reduce to a maximum height of 1.0 metre from natural ground level, the railings and gate from the perimeter of the front garden; AND
    - (ii) Make good any damage caused to the existing wall in carrying out step 1, in materials that match in colour and texture the existing wall; AND
    - (iii) Remove permanently all materials and debris from the site, resulting from steps (1) and (2) from the site.
  - The period for compliance with the requirements is one month from the effective date of this notice.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. 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 as amended, and falls to be considered.
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### **Summary of decision**

1. The appeal succeeds in part and the enforcement notice is upheld as varied in the terms set out in the Formal Decision.

### **Background**

2. The development was the subject of a s78 appeal (*APP/B5480/D/18/3215050*) earlier this year when an Inspector, in dismissing the appeal, refused to grant planning permission for the metal gates and railings in situ. Subsequently the Council issued the enforcement notice. I am not aware of any modifications made to the development since the appeal decision and this, therefore, represents an important material consideration in the determination of the current appeal.

### **The Appeal on Ground (a) and the Deemed Planning Application**

#### **Main Issue**

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

## Reasons

4. The development comprises black, scalloped, metal railings overlying a small brick wall along with a tall metal gate of similar profile. The appellant indicates that the development was undertaken for security reasons due both to personal circumstances and that a number of burglaries have taken place in the local area. This might be the case but the development is not the only method of providing security. Further, at my site visit, I observed that this residential area is largely typified by low boundary walls which gives an open fronted character to this residential street.
5. Although the appellant argues that corner plots such as this facilitate the scope to introduce higher boundary treatments and that the railings and gate mimic the curved nature of the wooden fencing along the Forest Road frontage, the extent of the high enclosure, even when tempered from the gaps between the railings, makes for an unduly prominent development.
6. The appellant also comments that there are a variety of boundary treatments in the area including retaining walls and metal gates of varying heights and styles. He specifically cites the relatively high boundary enclosures at Nos 177 and 183 Mawney Road although no details of their planning status were provided. Indeed, the Council, in its representations, indicates that no planning permission has been granted for either of these developments and that the latter is subject to an enforcement investigation. I also understand that the former is immune from remedial action due to the passage of time.
7. I have also been referred to examples of other boundary treatments, some outside the immediate locality. However, none of the examples cited have affected my conclusions given the surrounding area's characteristics and pattern of development that amplifies the incongruity of that enforced against. The development is therefore at odds with relevant advice from the Council's Supplementary Planning Document 'Residential Extensions and Alterations' (SPD) which says that boundary treatments should reinforce the prevailing streetscape character, reflecting also the design objectives of policy DC61 of the Council's Core Strategy and Development Control Policies Development Plan Document (DPD).
8. I have given weight to the individual needs of the appellant's son and have noted the therapist's report provided in this connection. I have also had regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, and note the need for a secure family environment, which is a material consideration. However, I have not seen anything sufficiently compelling which would cause me to conclude differently to the previous Inspector who found that, due to the design, height and positioning of the railings and gate, they appeared as dominant, incongruous and intrusive additions to the street scene. On balance, this outweighs all other considerations.
9. I therefore conclude that the development is harmful to the character and appearance of the surrounding area, contrary to the Council's SPD and relevant aims of DPD policy DC61.

## **The Appeal on Ground (g)**

10. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable.

11. The appellant states that the period of one month for compliance should be extended to three months due to personal circumstances and the need for alternative boundary enclosure measures to be considered.
12. Despite the fact the removal of or, alternatively, the modification of the existing railings and gate would not involve significant structural work, I am mindful that a preferred solution may involve a formal approach to the Council in order to reach an agreement. In giving proper consideration to the individual circumstances involved I am satisfied that a period of three months would be more appropriate to make the necessary arrangements and achieve compliance.
13. On this basis the appeal succeeds on ground (g) and I will vary the notice, accordingly.

**Formal Decision**

14. The appeal is allowed on ground (g), and it is directed that the enforcement notice be varied by the deletion of one month and the substitution of three months as the period for compliance. Subject to this variation the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*Timothy C King*

INSPECTOR