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# Appeal Decision

Site visit made on 28 June 2022

**by D Fleming BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 04 July 2022**

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## **Appeal Ref: APP/B5480/C/20/3263818**

### **100 Havering Road, Romford, RM1 4RB**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Atiqur Rahman against an enforcement notice issued by London Borough of Havering.
  - The notice was issued on 30 October 2020.
  - The breach of planning control as alleged in the notice is without planning permission, the erection of walls, pillars railings and gates to the front elevation facing the highway of Havering Road and to the side elevation facing Ashmour Gardens to heights in excess of 1 metre.
  - The requirements of the notice are to:
    - (i) Remove all walls, pillars, railings and gates from the front boundary of the dwelling facing Havering Road and from the side elevation facing Ashmour Gardens; OR
    - (ii) Reduce the height of any wall, pillar, railing or gate which faces Havering Road or which faces Ashmour Gardens to a maximum of 1 metre in height; OR
    - (iii) Reduce the height of any wall, pillar, railing or gate which faces Havering Road or which faces Ashmour Gardens to a maximum of 1 metre in height except for the area on the plan attached to the notice shown as hatched in black, which must be reduced to the height which existed prior to the development being carried out (requiring a reduction in height by 4 layers of bricks) and remove the gate marked by X on the plan attached to the notice or reduce it to a height of no more than one metre; and
    - (iv) Remove all materials, rubbish and debris from the site as a result of taking step (i), step (ii) or Step (iii).
  - The period for compliance with the requirements is two months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Town and Country Planning Act 1990 as amended.
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## **Decision**

1. The appeal is dismissed and the enforcement notice is upheld.

## **Preliminary Matters**

2. The appeal on ground (a) was withdrawn by the appellant on 25 March 2021. This was because after some further negotiations, planning permission was granted by the Council on 19 March 2021 for the retention of part of the boundary treatment. Prior to this, planning permission had been refused for a proposal to reduce the height of the existing unauthorised boundary treatment and a subsequent appeal against that decision was dismissed on 28 October 2020.<sup>1</sup>
3. The Inspector in that appeal viewed the boundary treatment as comprising two parts, namely a section enclosing the front garden that extended along the side

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<sup>1</sup> Reference APP/B5480/D/20/3250294

elevation of the building and a section that enclosed the rear garden. He stated the proposal to reduce the height of the higher wall and gates adjacent to the rear garden would not be materially different to that which previously existed in that location. Although I have not been provided with a copy of the approved March 2021 plans, it is my understanding based on the Inspector's observations that it is the boundary treatment enclosing just the rear garden that is now authorised. I shall therefore proceed on the basis of the remaining grounds of appeal.

### **The appeal on ground (f)**

4. The appeal on ground (f) is that the requirements of the notice exceed what is necessary to achieve its purpose. The purposes of an enforcement notice are set out in section 173 of the Town and Country Planning Act 1990 and are to remedy the breach of planning control (s173(4)(a)) or to remedy any injury to amenity (s173(4)(b)). In this case the notice requires either the removal of the development at the front and side of the building or a reduction in its height to accord with what would be allowed under "permitted development"<sup>2</sup>. I therefore consider that the purpose of the notice is to remedy the breach of planning control.
5. In appealing on ground (f) the onus is on the appellant to specify lesser steps, which in his view would overcome the objections to the development. He has submitted a proposal which shows a reduction in the height of the railings and piers around the front and side of the building by 25cm and the removal of the arch shape over the gates so that the gates would be a similar height to the reduced railings height.
6. This however would not remedy the breach of planning control as the boundary treatment would still exceed 1m in height. Whilst modifying the development to show some reduction in height might well remedy any injury to amenity, that is not the purpose of the notice. In addition, to accept the appellant's lesser steps, in the absence of an appeal under ground (a), would amount to a grant of planning permission without any consideration of the planning merits of the development and the policy context. Accordingly, the appeal on ground (f) must fail.

### **The ground (g) appeal**

7. This ground of appeal is that the time given to comply with the requirements of the notice is too short. It is therefore limited in scope to a consideration of the actual time needed to carry out the physical works or actions to remedy the breach of planning control.
8. The appellant submits that two months is not a reasonable period and that this should be increased to nine months. This is to allow time to raise finance to carry out the works, to appoint a contractor, as well as to allow time for a contractor to physically carry out the works.
9. The appellant's case relates largely to the time before the works can commence. Whilst his concerns are understandable, the notice has been issued in relation to a simple structure and I consider either its removal or a reduction in its height by a competent builder could be achieved in the time

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<sup>2</sup> Town and Country Planning (General Permitted Development)(England) Order 2015 Schedule 2, Part 2 Class A

specified. As such, I see no reason to vary the period for compliance. The appeal on ground (g) therefore fails.

**Conclusion**

10. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

*D Fleming*

INSPECTOR

