



## Appeal Decisions

Site visit made on 9 August 2022

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 19<sup>TH</sup> AUGUST 2022**

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### **Appeal A Ref: APP/B5480/C/20/3264886**

#### **Mystole, Lambs Lane North, Rainham RM13 9XT**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Eduard Nicorici against an enforcement notice issued by the Council of the London Borough of Havering.
  - The notice was issued on 24 November 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 boundary to the property to a height in excess of 1 metre.
  - The requirements of the notice are: (i) Remove all walls, pillars, railings and gates from the front boundary of the site facing Lambs Lane North; or (ii) Reduce the height of any wall, pillar, railing or gate from the front boundary of the site facing Lambs Lane North to a maximum of 1 m in height; and (iii) Remove from the site all other debris, rubbish or other materials accumulated as a result of taking steps (i) or (ii) above.
  - The period for compliance with the requirements is two months.
  - 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.
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### **Appeal B Ref: APP/B5480/W/20/3263922**

#### **Mystole, Lambs Lane North, Rainham RM13 9XT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Eduard Nicorici against the decision of the Council of the London Borough of Havering.
  - The application Ref P1159.20, dated 16 August 2020, was refused by notice dated 9 November 2020.
  - The development proposed is described on the application form as "*retrospective planning application for the retention of a boundary wall with metal railing*".
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### **Decisions**

1. Appeal A-The appeal is dismissed, 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.
2. Appeal B-The appeal is dismissed.

### **Preliminary Matters**

3. The revised National Planning Policy Framework (the Framework) came into force during the course of these appeals. The main parties have been given an opportunity to comment on the implications of the Framework in respect of the appeals and I have taken it into account in my decisions.

4. The Havering Local Plan (LP) was adopted during the course of the appeals and now forms part of the Development Plan for the Borough. Policy DC61 in the former plan, referred to in the reasons for issuing the notice (Appeal A) and in the reasons for the refusal of planning permission (Appeal B), has therefore been superseded by LP Policies 7 and 26. After seeking comments from the main parties, I have determined the appeals in accordance with the LP.

## **Appeal A, Ground (a) appeal & Appeal B**

### **Main Issue**

5. The main issue in these appeals is the effect of the development on the character and appearance of the surrounding area.

### **Reasons**

#### *Character and appearance*

6. The appeal property contains an enlarged detached dwelling. A brick wall with stone-capped brick piers has been erected along the property frontage, adjacent to the street. Metal railings have been erected on top of the wall, between the piers. The overall height of the railings is approaching 2 m, the piers being slightly lower. Towards opposite ends of the frontage are further brick gate piers, between which railed vehicular and pedestrian gates are hung. The overall height of the gate piers and gates is similar to that of the other piers and railings in the development.
7. The property occupies an established residential context, largely made up of dwellings set back from the street behind good-sized front garden areas. For the most part, the front boundary treatments along the street comprise low brick walls of varying design, sometimes topped with low railings, but still maintaining a limited overall height. This arrangement affords largely unencumbered views over frontages towards the front elevations of dwellings and imparts an appreciable feeling of openness in the street scene which contributes significantly to the pleasant, spacious and harmonious suburban character and appearance of the locality. There are few instances of tall front boundary treatments in the vicinity of the property.
8. The development is significantly taller than the front boundary treatment of the adjoining residential property, as well as the majority of the other front boundary treatments elsewhere in the street, including those referred to by the appellant. Approaching the property in either direction the development is largely viewed in conjunction with the low boundary treatments and more open frontages along the street. The overall height lends the development a significant visual presence in the street scene. This is given further emphasis by the ornate, decorative design of the railings and railed gates, which incorporate scalloped top rails.
9. Due to the above factors, the development does not respect or reflect the limited height and lower profile of the front boundary treatments prevalent in the street. It does not relate well to the front boundary treatment of the adjacent residential property or to those nearby. The overall height and design of the development also contrasts markedly with the recessive visual qualities of the low wall with railings above at the front of the adjacent pub car park. Consequently, the development is viewed as an unduly assertive, alien built feature in the surroundings, also having the effect of significantly eroding views

over the front garden area, considerably reducing the sense of openness and leading to an appreciably more enclosed feel in the street scene. The above is all entirely at odds with the generally open and spacious visual qualities of the locality and has led to a significant and harmful erosion of the established suburban character and appearance of the area.

10. The brick finish of the wall and piers is not dissimilar to that of other front boundary walls in the locality, whilst together the wall, piers, railings and gates assist in defining the property frontage. However, these factors do not adequately offset the adverse visual consequences of the development. Planting undertaken adjacent to the property frontage has not significantly softened the overall appearance of the development, nor is it likely to do so over time.
11. References were made to various incidences of tall front boundary treatments in the wider area, a number of which I saw during my visit. In my view, those incidences largely serve to illustrate the unfortunate visual effects that can be associated with front boundary treatments similar to the development. The existence of similar structures is not a good reason for permitting unacceptable development, as it could be repeated. In any event, I cannot be certain that the circumstances in which the developments referred to originated had relevance to those arising in this appeal. For instance, as far as I was made aware none of those front boundary treatments were erected recently and benefitted from planning permission. Accordingly, the other developments referred to do not assist the appellant's case.
12. Overall therefore, I find that the development causes unacceptable harm to the character and appearance of the area. There is failure to accord with criteria in LP Policy 26, as the development is not informed by and does not respect and complement the distinctive qualities, identity and character of the locality, it does not respect, reinforce and complement the local street scene and does not respect the visual integrity and established scale of frontages. LP Policy 7 largely concerns the living conditions of existing and future residential occupiers, being of little relevance in this matter. Even so, by not reinforcing the prevailing character of the streetscape the development is also inconsistent with the Council's Residential Extensions and Alterations Supplementary Planning Document (SPD). Furthermore, by not achieving a well-designed place the development is inconsistent with chapter 12 of the Framework.

#### *Other Matters*

13. I am given to understand that the development was undertaken primarily to provide security for the appellant and their family, following incidences of criminal and anti-social behaviour in the vicinity. Even so, the information provided suggests that local levels of reported crime are lower than in the rest of the Borough, which itself has a lower crime rate than London in general. Although that information may not reflect the actual situation, as a significant amount of such activity goes unreported, it is still likely to be a reasonably reliable indicator of relative levels of criminality and related behaviour in the locality. Moreover, I am not persuaded that an alternative such as enhanced CCTV and alarm systems and/or planting intruder-proof hedging, would be unable to achieve the appellant's security objectives. In any event, the more 'defensive' qualities inherent in the development are unlikely to contribute to reducing or preventing criminality and anti-social activity in a meaningful

manner. Consequently, based on the available evidence I am not convinced that the development contributes positively to reducing crime and the fear of crime. In reaching my conclusions in this and on the main issue, I have also taken account of representations received from interested local residents expressing support for the development.

*Conclusion-Appeal A, Ground (a) & Appeal B*

14. The development does not accord with the Development Plan and is inconsistent with the SPD, as well as with the Framework. Therefore, the ground (a) appeal in Appeal A and Appeal B do not succeed.

**Appeal A**

**Ground (g) appeal**

15. The ground of appeal is that the time allowed for complying with the notice requirements is unreasonably short.
16. The remedial works required-removing the walls, piers, railings and gates or reducing them to no more than 1 m high-are reasonably limited in scale and are unlikely to involve the use of specialist plant or equipment. Such works should be a relatively straightforward task for a suitably experienced small building contractor. In my estimation, the works are unlikely to take longer than a couple of weeks to complete. There was no firm evidence of a particular shortage of building contractors in the general area or of waiting times for them to become available being especially lengthy. As a result, there is nothing to suggest that a suitable contractor would not be able to undertake the works at relatively short notice. Such works are also unlikely to be particularly expensive. Arranging and securing any necessary financing for the works is therefore not likely to take the appellant very long; no clear and compelling evidence was provided which might have suggested otherwise.
17. Accordingly, two months affords ample time in which to comply with the notice requirements. It follows that extending the time for compliance to nine months would achieve little beyond perpetuating the breach and the planning harm caused.
18. The ground (g) appeal fails.

**Conclusions**

19. For the reasons given above, I conclude that Appeal A should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended. Also, for the reasons given above, I conclude that Appeal B should be dismissed.

*Stephen Hawkins*

INSPECTOR