



Appeal Decision

by Melissa Hall BA(Hons), BTP, MSc, MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 15/12/2023

Appeal reference: CAS-02732-Z7V0Y6

Site address: 125 Caerleon Road, Newport NP19 7BZ

- 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 Paul Campbell against an enforcement notice issued by Newport City Council.
 - The Enforcement Notice ("the Notice"), numbered E22/0090 was issued on 9 May 2023.
 - The breach of planning control as alleged in the Notice is '*Without planning permission, and within the last four years, the unauthorised erection of a fence on top of a wall with a combined height over 1 metre and adjacent to a highway*'.
 - The requirements of the Notice are '*Reduce the height of the fence marked in blue on the attached plan so that the combined height of the wall and fence does not exceed 1m in height*'.
 - The period for compliance with the requirements is one calendar month from the date the Notice takes effect.
 - 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.
 - A site visit was made on 17 November 2023.
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Decision

1. The appeal is allowed in respect of ground (g) only, but otherwise dismissed. I direct that the Notice be varied by the deletion of the words 'one month' and their substitution with the words 'three months' from the date the Notice takes effect. Subject to this variation, the Notice is upheld.

Costs Application

2. An application for costs has been made by Newport City Council against the appellant. This application is the subject of a separate decision.

Background

3. An application for the 'Retention of boundary fence' was dismissed on appeal in June 2023 (appeal reference CAS-02675-X1S6Y9) on the basis of its harmful effect on the character and appearance of the area.

The ground (a) appeal / deemed planning application

4. An appeal on ground (a) is that planning permission should be granted. The main issue is the effect of the development on the character and appearance of the area.
5. The appeal property is a traditional mid- terraced dwelling fronting Caerleon Road, which lies in a mixed commercial and residential area. That being said, it is positioned in a row of predominantly commercial uses, which have open front forecourt areas abutting the footway. I saw that the dwellings opposite the site and further along Caerleon Road to the south have front boundary treatments consisting mainly of low brick walls, some with railings atop, allowing views of the front elevations of the dwellings beyond.
6. In the case of the appeal property, the close boarded timber fence has been erected on top of a red brick wall which, together with a gate, completely encloses the forecourt. Notwithstanding the mixed character and appearance that I have described, the siting of this fence and the enclosure of the forecourt in a terraced row otherwise characterised by open forecourts, is plainly at odds with its surroundings. Its solid form, height and considerable length contribute to its alien appearance in the street scene.
7. As noted by the Inspector in the previous appeal, the use of timber is not, of itself, unacceptable in the context of the diverse forms of boundary treatments used in the surrounding area. Nevertheless, I concur that the fence stands out as an austere and visually intrusive feature in the street scene. It also fails to respond to the height and nature of prevailing front boundary treatments that characterise the wider area.
8. I also do not dispute that the fence screens the refuse containers associated with the neighbouring shops and satisfies the appellant's need for privacy and safety. Whilst the development may meet one of the objectives of Policy GP2 of the adopted Newport Local Development Plan (LDP) in terms of designing out the opportunity for crime and anti-social behaviour, it fails to meet other policy objectives that seek to prevent harm to the character and appearance of an area.
9. I have also had regard to Article 8 of the Human Rights Act 1998, which protects a right to respect for private and family life. Although I am not aware whether alternative boundary treatments have been considered by the appellant, there is no evidence before me that this is the only means of enclosure that would meet the appellant's needs. As such, dismissing the appeal results in a minor interference that is proportionate when weighed against the harm to the character and appearance of the area.
10. I therefore conclude that the development is harmful to the character and appearance of its surroundings, in conflict with LDP Policies GP2 and GP6 which seek to safeguard visual amenity and ensure good quality design.

The ground (g) appeal

11. An appeal on ground (g) is that the time given to comply with the Notice is too short.
12. The appellant contends that the one month period for compliance is too short given that a contractor would need to be appointed to undertake the work. Taking this into account, a period of six months is sought.
13. The Council states that it sees no reason why a one month time frame would need to be extended for the requirements of the Notice to be met, and that the six month time period sought to remove the fence is excessive.
14. To extend the period of compliance would prolong the harm I have identified. However, I have also had regard to the appellant's reliance on a contractor to carry out the works

within what is quite a tight timeframe specified in the Notice. That being said, and whilst I find the six month period sought by the appellant to be too long a compliance period during which the unauthorised development would subsist, I consider that three months strikes the right balance between remedying the breach of planning control as soon as is reasonably possible and acknowledging the difficulties that the appellant is likely to encounter. I shall vary the Notice accordingly.

Conclusion

15. In conclusion, the appeal is unsuccessful on ground (a) and I refuse to grant planning permission on the deemed application. The appeal on ground (g) succeeds as I find the compliance period too short, and I am therefore varying the Notice accordingly prior to upholding it.
16. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective to make our cities, towns and villages even better places in which to live and work.

Melissa Hall

INSPECTOR
