



Appeal Decision

Site visit made on 5 August 2013

by Simon Hand MA

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

Decision date: 14 August 2013

Appeal Ref: APP/Q1445/C/13/2192813

Land at 22 Eley Crescent, Rottingdean, Brighton, BN2 7FE

- 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 Mrs M E Brown against an enforcement notice issued by Brighton & Hove City Council.
 - The Council's reference is 2012/0270.
 - The notice was issued on 3 January 2013.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a fence and gate on the front boundary of the Land.
 - The requirements of the notice are (i) remove the timber fence from the front boundary of the Land; (ii) remove the timber gate from the front boundary of the Land.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) 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. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The appeal on ground (a)

2. The main issue in this case is whether the fence and gate harm the character and appearance of the area. The Brighton and Hove Local Plan (2005) is the development plan for the area and policy QD5 is the relevant policy for this development. QD5 requires all new development to provide an "interesting and attractive frontage, particularly at street level for pedestrians".
3. No 22 is a small bungalow in a road with many similar bungalows. The land slopes down hill across the road, so the bungalows opposite are set up above the pavement and those on the same side as No 22 are set below road level. No 22, like its neighbours has a short front garden, but unlike its neighbours this has thick bushes to the sides and a tall fence and gate along the road frontage. The roof of the bungalow is visible above the fence, which is backed by a hedge, parts of which are also visible above the fence.
4. Generally the houses in Eley Crescent have open plan frontages. One or two have hedged boundaries and I noticed one tall hedge further along the road, but that was very much in the minority. There were no other tall fences that I could see. Considered on its own, the fence and gate are intrusive and dominant. When considered in the context of the street as a whole they stand

out as being entirely out of place. Even without QD5 they are harmful to the character and appearance of the area and they certainly do not provide an interesting or attractive street frontage.

5. I have considered the appellants argument that she requires privacy and protection, but there are other ways of going about this than the intrusive fence that she has erected. I have also considered the impact on the appellant's human rights, but I consider the requirement to remove the fence is entirely proportional to the harm it causes. I also note her reference to other fences in the wider area, but none are in a similar position as hers and none appeared to be close to the appeal site.

Simon Hand

Inspector