
Appeal Decisions

Site visit made on 6 February 2017

by Andrew R Hammond MSc MA CEng MIET MRTPI

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

Decision date: 13 February 2017

Appeal A Ref: APP/Q4625/C/16/3161417

Appeal B Ref: APP/Q4625/C/16/3161861

60 Widney Manor Road, Solihull B91 3JQ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - Appeal A is made by Mr N Heath and Appeal B by Mrs Heath against an enforcement notice issued by Solihull Metropolitan Borough Council.
 - The enforcement notice, numbered AP/2016/00047/ENF, was issued on 15 September 2016.
 - The breach of planning control as alleged in the notice is without planning permission the erection of 2 metre high security gates, walls, railings and pillars adjacent to a highway used for vehicular traffic in the approximate position shown with a blue line on the plan..
 - The requirements of the notice are:
 - 1) Dismantle or demolish the gates, walls, railings and pillars in the approximate position shown with a blue line on the plan and remove the resultant material from the property; OR
 - 2) Reduce the height of the gates, walls, railings and pillars in the approximate position shown with a blue line on the plan to a height of not greater than one metre and remove the resultant material from the Property.
 - The period for compliance with the requirements is within 2 months of the notice taking effect.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a), (c), (f) & (g) of the Town and Country Planning Act 1990 as amended.
 - Appeal A is proceeding on the grounds set out in section 174(2)(c), (f) & (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.
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Decision Appeal A Ground (a)

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of 2 metre high security gates, walls, railings and pillars on land at 60 Widney Manor Road, Solihull B91 3JQ referred to in the notice.

Both Appeals Ground (c)

2. The gates and railings are set back some 6m from the carriageway behind the footway and a grass verge, which is highway land. Whilst the appellant argues

that the setback means that the development is not adjacent to the highway, case law on this matter is inconclusive and each case needs to be considered as a matter of fact and degree. In this instance there is no intervening structure or planting between the development and the highway, other than the open grass verge, and it is reasonable to conclude that the development does not benefit from planning permission by virtue of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015. The ground (c) appeals therefore fail.

Appeal A Ground (a) Main Issues

3. Whilst the appeal site is within the Green Belt the Council acknowledge that the gates, walls, railings and pillars are not inappropriate development. Hence the main issues in this appeal are the effect of the development on the character and appearance of the streetscene and of the Malvern Park Farm Conservation Area.

Reasons

4. To the south of the appeal site, Widney Manor Road is developed predominantly to the western side only whilst No.60 is opposite the Malvern Park Farm Conservation Area, to the north of which the road is developed to both sides. Properties along the road are generally large detached houses set well back from the carriageway behind the footway and grass verge. The appeal development consists of 2m high security gates and 2m high railings supported by a low wall and brick pillars.
5. The character of the western side of Widney Manor Road is suburban in nature with a strong building line and deep front gardens. Boundary treatments between the properties and to the road frontage vary considerably with no consistency of approach, save that front boundaries are set back behind the grass verge, which reinforces the separation of the front gardens from the highway.
6. Whilst in the immediate vicinity of the appeal site front gardens are predominantly open or set behind low boundary walls or planting, elsewhere in the road, particularly to the south, high railings and security gates are relatively commonplace, some being more solid, restricting views into the front gardens.
7. Robust boundary planting to either side of the front garden of the appeal premises give it a strong sense of enclosure, the hedge to the north being particularly dense and tall, at some 2.5m. Considering the property to the north, whilst it is set behind low planting and dwarf walls immediately behind the verge; mature trees, including tall conifers, substantially screen the garden and dwelling from view and re-enforce the consistent alignment of features dividing the prominent grass verge from the private front gardens.
8. Whilst the appeal development is evident in the streetscene, it is aligned consistently with other front boundary treatment to the rear of the grass verge. Recent planting to the rear of the railings will soften their appearance so as to blend in with the suburban character of the road. The design of the gates is such that they are substantially transparent, allowing views of the front garden and dwelling behind. Given their location within the consistent boundary alignment, with often tall planting between gardens extending to the edge of

the verge, the gates and railings are not conspicuous in views along Widney Manor Road.

9. The appeal site is located opposite the Malvern Park Conservation Area which encompasses a listed farmhouse and associated buildings. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
10. In addition to the farmhouse, the conservation area contains a range of fodder barns; further farm buildings alongside the road together with a single storey building in the middle of the site; and a cottage and a pair of semi-detached dwellings further down the road.
11. Immediately opposite the appeal premises and between the roadside buildings and the cottage, the character and appearance of the conservation area is interrupted by a driveway, Deer Park Way, giving access to residential development to the rear. To the north of the conservation area, a further access gives access to a gated residential development set back from the road behind low railings and tall dense planting.
12. Given the nature of the development around the conservation area, the appeal development is not detrimental to either its character or its appearance.
13. The development is not, therefore, contrary to Policy P15 "Securing Design Quality" or Policy P16 "Conserving Heritage assets and Local Distinctiveness" of the Solihull Local Plan (2013) of the National Planning Policy Framework.
14. For the reasons given above I conclude that Appeal A ground (a) should be allowed.
15. Given the above conclusion on Appeal A ground (a), there is no need to further consider the appeals on grounds (f) and (g).

Andrew Hammond

Inspector