

Appeals Decisions

Site visit made on 1 August 2019

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 02 September 2019

Appeal A: Ref: APP/Z3635/C/19/3220221

41 Nursery Road, Sunbury-on-Thames TW16 6LH

- Appeal A is made by Henry Thomas under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: 18/00147/ENF) issued by Spelthorne Borough Council on 13 December 2018.
 - The breach of planning control alleged in the notice is "the construction of a carport and extension of existing front wall".
 - The requirements of the notice are as follows: -
 - Remove the car port.
 - Remove the wrought iron fence from the front boundary wall.
 - Remove all resultant debris from the site."
 - The period for compliance with these requirements is six months.
 - The appeal is proceeding on the ground set out in section 174(2)(a). Since the appeal has been brought on ground (a), an application for planning permission is deemed to have been made by section 177(5) in respect of the matters stated in the notice as constituting a breach of planning control.
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Appeal B: Ref: APP/Z3635/W/19/3220220

41 Nursery Road, Sunbury-on-Thames TW16 6LH

- Appeal B is made by Henry Thomas under section 78 of the Town and Country Planning Act 1990 against a refusal by Spelthorne Borough Council to grant planning permission.
 - The application Ref 18/01129/HOU, dated 16 July 2018, was refused by notice dated 29 October 2018.
 - The development proposed is "Retention of carport and extension of existing front wall including the installation of gates".
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Decisions

Appeal A: Ref: APP/Z3635/C/19/3220221

1. The appeal is allowed insofar as it relates to the wall and the fence (as constructed). Planning permission is granted on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990 for the construction of the extension of the existing front wall (including the wrought-iron fence) at 41 Nursery Road, Sunbury-on-Thames TW16 6LH.
 2. The appeal is dismissed insofar as it relates to the carport. Planning permission is refused on the application deemed to be made by section 177(5) of the Town
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and Country Planning Act 1990 for the construction of the carport at 41 Nursery Road, Sunbury-on-Thames TW16 6LH.

3. The enforcement notice is upheld.

Appeal B: Ref: APP/Z3635/W/19/3220220

4. The appeal is allowed insofar as it relates to the gate and planning permission is granted for the installation of a gate at 41 Nursery Road, Sunbury-on-Thames TW16 6LH in accordance with the terms of the application Ref 18/01129/HOU dated 16 July 2018 and the plans submitted therewith (so far as they are relevant to the gate), subject to the following conditions: -
 1. The development permitted shall begin not later than 3 years from the date of this decision.
 2. The development permitted shall be carried out in accordance with the following approved plans (so far as they are relevant to the gate): PNR/718, PNR/718/1 and PNR/718/4.
5. The appeal is dismissed insofar as it relates to the carport and the proposed extension to the existing front wall (with brick pillars).

Reasons for the decisions

Appeal A

Ground (a) and the deemed planning application

6. The development to which the deemed planning application relates is that described in the allegation in the enforcement notice, namely "the construction of a carport and extension of existing front wall". This is the development as it stood at the site visit. The "extension of existing front wall" is an upwards extension that has brought about a higher brick wall with a wrought-iron fence on top of it.
7. During the course of the appeal, the Council have reviewed the requirements of the enforcement notice. The requirements already mean that the higher brick wall can remain. Following consultations with the highway authority, the Council have now decided that the wrought-iron fence can also remain since, as constructed with thin metal stanchions, its effect on visibility and highway safety is acceptable. I agree with the Council's conclusions and have granted an unconditional planning permission for the extended front wall, as it has been constructed, including the wrought-iron fence. The appeal on ground (a) has therefore succeeded in these respects.
8. The Council's continued opposition to the development as constructed relates only to the carport. The main issue in deciding whether planning permission should be granted for the carport concerns its effect on the character and appearance of the appeal site and its surroundings.
9. The carport covers an area of about 46m², which is around half of the total space between the front of the house and its front boundary. At about 1.95m high, it is slightly higher than the wrought-iron fence and slightly higher than

the fence on the boundary with the adjoining semi's front garden. The carport is used to protect the appellant's collection of cars.

10. There are no structures comparable to the carport in this locality. On this side of the road, the street scene consists of a line of houses with front gardens and front parking areas, which are free of structures other than typical garden walls and fences. The carport looks significantly out of place here; it harms both the appearance of the street scene and the appearance of the semis, as well as obstructing the outlook from the nearest windows in the house.
11. Policy EN1 of the Spelthorne Core Strategy and Policies Development Plan Document 2009 states that development should achieve a high standard of design and layout. It indicates that it should respect and make a positive contribution to the street scene and to the character of the area in which it is situated and have a satisfactory relationship to adjoining properties. The carport fails to meet these criteria.
12. I appreciate that the height of the carport is as low as possible and that the carport is screened to some extent by fencing and some roadside trees and hedges; also that it serves a useful purpose. These factors are, in my opinion, not sufficient to overcome the drawbacks I have identified. Planning permission has therefore been refused for the carport and the appeal on ground (a) has failed in this respect.

Note

13. Although planning permission has been granted for the wall and the fence (as constructed), the enforcement notice has been upheld without changing its requirements, since this would give rise to two planning permissions, namely the one that has been granted here and the one that would be deemed to be granted by section 173(11) due to under-enforcement. Attention is drawn to the provisions of section 180(1) as to the effect on the notice of the permission that has been granted.

Appeal B

14. The development for which planning permission is applied for in Appeal B consists of (i) the same carport as in Appeal A, (ii) a brick front wall with brick pillars and metal railings between the pillars and (iii) a sliding gate across the vehicular access, which would be constructed using matching metal railings. The Council's objections are to the carport, as in Appeal A, and to the wall with brick pillars; the Council have not objected to the gate.
15. Appeal B has been dismissed insofar as the carport is concerned, for the reasons already given above in Appeal A. There is no reason to object to the gate and planning permission has been granted for it, subject to standard conditions. The remaining main issue concerns the effect the wall with brick pillars would have on pedestrian safety at the vehicular access.
16. There would be five square brick pillars about 1.9m high, four on the eastern side of the vehicular access and one on the western side. They would make it appreciably more difficult for pedestrians using the footway and drivers emerging from the access to see each other in sufficient time to remove the need to take avoiding action, and would therefore compromise pedestrian

safety. This would be contrary to the aims of Policy CC2 of the Spelthorne Core Strategy and Policies Development Plan Document 2009, subparagraphs d) iii and d) iv.

17. I consider that planning permission should be withheld for the proposed wall with brick pillars in order to maintain pedestrian safety. Appeal B has therefore failed in this respect.

D.A.Hainsworth

INSPECTOR