
Appeal Decisions

Site visit made on 4 November 2019

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State

Decision date: 25 November 2019

Appeal A: APP/N0410/C/18/3212119

Appeal B: APP/N0410/C/18/3212120

**Land at High Gables, Rectory Close, Farnham Royal, Buckinghamshire
SL2 3BG**

- 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 appeals are made by Mr Manoj Kumar (Appeal A) and Mrs Sonia Kanda (Appeal B) against an enforcement notice issued by South Bucks District Council.
- The enforcement notice was issued on 14 August 2018.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a building on the Land ("the Unauthorised Development") as shown in the approximate location outlined in blue on the Plan.
- The requirements of the notice are: -
 - 5.1 Demolish the Unauthorised Development;
 - 5.2 Remove all fixtures and fittings associated with the Unauthorised Development from the Land; and
 - 5.3 Remove all waste materials and other debris arising from the compliance with steps 5.1 and 5.2 from the Land.
- The period for compliance with the requirements is 4 months.
- Appeal A is proceeding on the grounds set out in section 174(2) (a) and (d) of the Town and Country Planning Act 1990 as amended (the 1990 Act). Appeal B is proceeding on the ground set out in section 174(2) (d) of the 1990 Act. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a), in regard to Appeal B, and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act have lapsed in this respect.

Formal Decisions

Appeal 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 for the development already carried out, namely the erection of a building on land at High Gables, Rectory Close, Farnham Royal, Buckinghamshire SL2 3BG referred to in the notice, subject to the following condition: -
 - 1) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as High Gables.

Appeal B

2. For the reasons given below in relation to ground (d), I conclude that the appeal should not succeed. However, the enforcement notice will not be upheld as a consequence of my decision to allow Appeal A on ground (a) and quash the notice.

Appeals A and B - The ground (d) appeal

3. The ground of appeal is that at the date when the notice was issued, no enforcement action could be taken. In order for the appeal to succeed on this ground, it has to be shown that the development in question was substantially completed more than 4 years before the notice was issued, that is prior to 14 August 2014. The test for the evidence is on the balance of probability.
4. The appellants state that the foundations for the outbuilding were carried out around September to December in 2012. They go on to state that a few months later a wooden shed was constructed. However, they also state that High Gables was purchased in 2006 and at the time 4 wooden sheds were erected and remained until they were demolished and replaced with a solid brick built structure.
5. Whilst, I acknowledge that there appears to have been timber sheds within the appeal site for a number of years the appellants have, by their own admission, indicated that these sheds were demolished and replaced with the building that is the subject of the enforcement notice. In addition, there is very little evidence before me to indicate what date the current building was substantially completed by. Furthermore, the Council have provided an image from Google Maps Street View and the existing building does not appear to be visible over the boundary wall in that image. The image is dated October 2015.
6. The appellants' evidence is not sufficiently precise and unambiguous to demonstrate, on the balance of probability, that it was not too late for enforcement action to be taken when the notice was issued. Accordingly, therefore, the appeals on ground (d) fails.

Appeal A - The ground (a) appeal and deemed planning application

Main Issue

7. The main issue is the effect of the development on the character and appearance of the surrounding area.

Reasons

8. Saved Policy H13 of the South Bucks District Local Plan (LP) states that proposals to erect a building within the curtilage of a dwelling will only be permitted where they meet a number of criteria. One of the criteria states, amongst other things, that the building would not adversely affect the character of the locality in general, for example through overdominance or obtrusiveness and would be in accordance with LP Policy EP3.
9. LP Policy EP3 states, amongst other things, that development will only be permitted where its scale, siting, height and design are compatible with the character and amenities of the site itself, adjoining development and the locality in general. It goes on to states that poor designs which are out of scale or character with their surroundings will not be permitted.
10. High Gables is a detached dwelling which occupies an 'L' shaped plot at the end of one arm of Rectory Close, a no-through road. The dwelling is set back a considerable distance from the road frontage, that forms an eastern boundary with the site, and its principal elevation faces approximately north. The majority of the dwellings, to the north of the appeal site, on Rectory Close are

modern detached dwellings with generous front gardens that are predominantly open plan in design.

11. However, the boundary of the appeal site with 16 Rectory Close (No 16) has tall mature landscaping close to the road frontage. In addition, the side boundary associated with the dwelling on the opposite side of Rectory Close to the appeal site has tall boundary treatment that also includes mature landscaping. Moreover, the recently constructed dwellings to the east of High Gables and the appeal property also have tall boundary treatments to their frontages. Consequently, the character and appearance of this part of Rectory Close is characterised by the enclosure provided by mature landscaping and boundary treatments.
12. The detached building that has been constructed on the appeal site is adjacent to the road frontage boundary and the boundary with No 16. It has rendered walls and a predominantly flat roof. Even though it does have double glazed fenestration I observed that it is currently being used for domestic storage purposes. The building has a sizeable footprint mainly due to its length as its depth is restricted. Nevertheless, it has the appearance of a domestic outbuilding when viewed from the road and it does not appear overly large or bulky in relation to the front garden of High Gables.
13. Moreover, only parts of the building are visible over High Gable's boundary treatment and the mature landscaping with No 16 screens views of it when on Rectory Close to the north of No 16. It is also seen in the context of the built form of No 16 and the dwellings to the north when seen from the recently constructed dwellings.
14. As a result, even though the building is adjacent to the road frontage it is not a prominent or overbearing feature in the street scene. Taking into account all of the above, the building does not harm the character and appearance of this part of Rectory Close. It follows that it complies with saved LP Policies H13 and EP3.

Other matters

15. The appellant has drawn my attention to other buildings that have been built at the front of dwellings in the surrounding area. However, I do not have the full details of the circumstances that led to these schemes being accepted and so cannot be sure that they represent a direct parallel to this case. Moreover, since the matters under consideration in this appeal are specific to the site and its immediate surroundings, I have given them limited weight. In any case I have considered the appeal proposal on its own merits.
16. The Council has raised concern that the building may not be used for ancillary purposes to High Gables in the future. However, a planning condition can be imposed to ensure that the Council has control over this matter.

Condition

17. I have considered the condition put forward by the Council against the requirements of the Planning Practice Guidance (PPG) and the National Planning Policy Framework. In the interests of conciseness and enforceability the wording of the condition has been amended.

18. I accept that a condition seeking to ensure that the use and occupation of the building remains ancillary to the existing dwelling is reasonable and necessary as a means of ensuring that the development accords with the character of the area.

Conclusion

19. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should succeed on ground (a) and planning permission will be granted.

D. Boffin

INSPECTOR