



Appeal Decision

Site visit made on 18 November 2019

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2019

Appeal Ref: APP/C1435/C/18/3215511

Land at Solar Park, Kitty Hawk Farm, Darp Lane, Ripe, East Sussex

- 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 Kittihawk Estates Limited against an enforcement notice issued by Wealden District Council.
 - The enforcement notice was issued on 27 September 2018.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a brick wall ("the Wall") in the approximate position shown by a green line on the attached plan.
 - The requirements of the notice are: (i) Demolish, dismantle and remove the Wall from the Land (ii) Remove from the Land all materials, rubble, rubbish, debris, tools and equipment arising from compliance with the first requirement above.
 - The period for compliance with the requirements is two months.
 - 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. Since the appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Summary of Decision

1. The appeal is dismissed and the enforcement notice is upheld with a variation.

Procedural Matter

2. The Council has cited policies from the Wealden Local Plan 2018, Proposed Submission, in its reasons for issuing the enforcement notice. However, as these are emerging policies, I have afforded them only limited weight.

The ground (a) appeal

Main Issue

3. The main issue is the effect of the wall on the character and appearance of the area.

Reasons

4. The site lies within attractive open countryside and is approached via a private track that serves Kitty Hawk Farm, as well as a solar farm. The wall, which is approximately 3m in height, has been erected at the entrance to the solar farm.

5. The site is within the Low Weald Character Area but is not within a designated landscape. It would appear that the wall was built in order to screen three buildings which are located near the entrance to the solar farm. However, the appellant's Landscape Statement comments that the detailed layout and details of materials for these buildings have never been approved by the Council. Taking this to be the case, the erection of the wall, to screen buildings which are unauthorised, would not amount to a particularly robust or compelling justification.
6. Even if the buildings do have the necessary planning permissions, a stretch of walling, 3m in height, is not a characteristic feature of the more rural parts of the local area or adjoining development. Whilst the wall has a screening effect, which may then also screen vehicles and equipment present at the site, given its height the wall can be glimpsed in views from Darp Lane. Whilst it is therefore not prominent in public views, being located approximately 180m along the private track, it remains an incongruous and conspicuous feature in the landscape, the intrinsic qualities of which are important to preserve.
7. Whilst I accept that the solar farm has introduced development into this rural area, its overall character remains that of open countryside, not an industrial landscape. I also accept that the development has not resulted in the removal of an existing hedgerow or trees and that the type of brick used in the construction of the wall may well be acceptable in itself. It is however the height and location of the wall that neither complements nor conserves the low rolling and predominantly agricultural character of the area.
8. The appellant has also suggested that as the solar farm is a temporary installation, the wall could similarly be conditioned so that it is removed. However, this would equate to allowing the wall to remain for a period of approximately 20 years, which, given the harm I have found, would neither ameliorate its effects nor otherwise be appropriate as it is not an integral part of the solar farm. I am also not persuaded on the evidence before me that landscaping, by means of planting in front of the wall, would provide adequate mitigation, given its height.
9. I conclude that the wall is harmful to the character and appearance of the area and contravenes Policies GD2, EN8 and EN27 of the Wealden Local Plan, 1998, and Policies SPO1 and WCS14 of the Wealden District Local Plan Core Strategy, 2013. These policies, amongst other things, require development to conserve the low rolling agricultural character of the landscape, respect the character of adjoining development and enhance distinct landscapes of the District. For the same reasons it contravenes the achieving well-designed places and the conserving and enhancing the natural environment objectives of the National Planning Policy Framework.

The ground (g) appeal

10. The enforcement notice affords a period of two months to comply with its requirements. I however appreciate the appellant will need to employ suitable builders and will then need to adequately secure the site. I am however not persuaded on the evidence before me that a period of six months is necessary and so consider that a period of four months strikes an appropriate balance so that the breach of planning control is not unduly perpetuated.
11. To this extent the appeal on ground (g) therefore succeeds.

Overall Conclusion

12. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the deemed application.

Formal Decision

13. It is directed that the enforcement notice be varied by:
- substituting “four months” as the period for compliance.
14. Subject to this variation the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Paul T Hocking

INSPECTOR