



Appeal Decision

Site visit made on 18 November 2019

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 05 December 2019

Appeal Ref: APP/H2835/C/19/3232556

Hobbills Mill, Irthlingborough Road, Wellingborough NN8 1RA

- 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 Simon Whittaker against an enforcement notice issued by the Borough Council of Wellingborough.
 - The enforcement notice was issued on 25 April 2019.
 - The breach of planning control as alleged in the notice is "Without planning permission, the erection of a 2m high close boarded timber fence on the Land".
 - The requirements of the notice are to "Remove the close boarded fence and supporting framework from the Land".
 - The period for compliance with the requirements is one month from the date the notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended ('the 1990 Act').
-

Decision

1. It is directed that the enforcement notice be corrected by the substitution of "Hobbills Mill" for "Hobbills Mill" at paragraph 2 of the notice. Subject to this correction, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. The plan attached to the enforcement notice identifies 'Hobbills Mill' rather than 'Hobbills Mill' as described in the notice itself. The appellant uses the former spelling in his appeal form, and at my site visit I saw that a letter box at the property uses the same spelling. It therefore appears that there is a typographical error in the notice and so I correct it as set out above.
3. The appellant refers in his appeal statement to a desire to 'appeal against the decision rejecting planning permission' for the fence in question, and the appeal documents reveal that a retrospective planning application for the fence was refused by the Council in early 2019. No appeal appears to have been brought against that refusal, and no appeal against the enforcement notice has been made on the ground set out in section 174(2)(a) of the 1990 Act: that planning permission should be granted for the matters stated in the notice. Because of this, I am unable to consider the planning merits of the fence, such as its appearance in comparison with other existing fences, or its alleged security benefits, when determining the appeal against the enforcement notice.
4. The appellant describes the works that have been carried out as works of 'repair', rather than the erection of a new fence which is what is described by the allegation in the notice. However, I observed that the overwhelming majority of the fence consists of new elements, and the works that have been

carried out considerably exceed works of alteration or repair. In any event, no appeal on ground (b) (that the matters stated in the notice have not occurred) has been made.

5. While the appeal form submitted by the Appellant indicated that the appeal was made on ground (f) only, covering correspondence indicated that the appeal was made on ground (e) as well as (f). The Planning Inspectorate wrote to the Appellant seeking clarification as to whether or not he wished to plead ground (e), and requested that if he did, he provide a short summary. No response was received. I shall therefore proceed to deal with the appeal on ground (f): that the steps required to be taken exceed what is necessary to remedy the breach of planning control or any injury to amenity.

Main Issue

6. The main issue arising in the appeal is whether the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control which may be constituted by the matters stated in the notice or, as the case may be, to remedy any injury to amenity which has been caused by the alleged breach of planning control.

Reasons

7. Section 173(4) of the 1990 Act requires that any enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, either of the following purposes:
 - (a) remedying the breach of planning control by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or
 - (b) remedying any injury to amenity which has been caused by the breach of planning control.
8. The steps specified by the Council here do not expressly require the restoration of the Land to its condition before the breach took place, but they do require the removal of the close boarded fence and its supporting framework from the Land. These steps are evidently specified for the purpose of remedying the breach of planning control, as explained by the Council's Appeal Statement. My task in this appeal is therefore to consider whether any lesser steps would achieve that purpose.
9. The appellant suggests that the appearance of the fence could be made less cumbersome by painting it to reduce the starkness of it being new, and that additional measures could be put in place to avoid any harm in the event of a flood. There is however no indication of what such measures might entail or how they could be secured in the context of this appeal. Whilst painting the fence might alleviate any injury to amenity which has been caused by the breach of planning control, this is not the purpose of the steps specified in the notice. The steps suggested by the appellant would not remedy the breach of planning control.

10. No other alternative steps having been suggested, it follows that the ground (f) appeal must fail. I shall therefore uphold the enforcement notice with the corrections I have specified above.

Laura Renaudon

INSPECTOR