The Planning Inspectorate

Appeal Decision

Site visit made on 2 December 2019

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2020

Appeal Ref: APP/D3830/C/19/3232813
Land at 12 College Lane, Hurstpierpoint, Hassocks, West Sussex BN6 9AG

- 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 Mr Michael Bradley against an enforcement notice issued by Mid Sussex District Council.
- The enforcement notice was issued on 5 June 2019.
- The breach of planning control as alleged in the notice is: Without planning permission, the erection of a timber fence ("the Unauthorised Development") in the approximate position shown marked green between points 'A' and 'B' on the Plan.
- The requirements of the notice are: i) Remove from the Land the Unauthorised Development in the approximate position shown marked green between points 'A' and 'B' on the Plan, including all fence panels, gates and supporting posts. ii) Remove from the Land all waste or debris arising from compliance with the first requirement above. iii) Restore the Land to its condition before the breach took place by making good and repairing any damage caused to the previously existing low flint and brick wall using materials consistent with and matching this existing wall.
- The period for compliance with the requirements is 28 days in respect of requirements i) and ii) and 3 months in respect of requirement iii).
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) 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.

Summary of Decision

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

The ground (a) appeal

Main Issue

2. The main issue is the effect of the fence on the character and appearance of the area and whether it preserves the setting of Wickham Farmhouse, a Grade II listed building.

Reasons

3. The appeal site accommodates an unlisted former barn which has been converted into a dwelling. It is located within the built-up area of Hurstpierpoint. A listed building, Wickham Farmhouse, is located in close proximity. The converted barn was part of the farmstead and given its interest and relationship with Wickham Farmhouse is a non-designated heritage asset. In the immediate area there is a mix of post-war and more modern housing.

4. In determining this appeal I have duties to pay special attention to the desirability of preserving the setting of the listed building. As heritage assets are irreplaceable, any harm or loss requires clear and convincing justification. The National Planning Policy Framework (the Framework) advises that any harm which is less than substantial must be weighed against the public benefit of the development.

5. The heritage significance of the listed building is principally embodied in its physical fabric as a C17 or earlier farmhouse. The appeal site derives its significance from its location and relationship, having been part of the associated farmstead. The appeal site accordingly makes a strong positive contribution to the setting of the listed building.

6. The fence has been erected immediately behind an existing flint and brick wall at the appeal site, adjacent to the footway. It however overhangs and therefore has the appearance of being situated on top of the wall.

7. The weaved design and oak construction of the fence results in a rustic appearance. However, the introduction of fencing results in an unusual combination that appears conspicuous within the street-scene, given its contrasting design and overall height. It is therefore incongruous and does not result in high quality design or the creation of a sense of place appropriate to the characteristics of the appeal site or wider area, despite the presence of varying boundary treatments along other parts of the road.

8. Wickham Farmhouse is set back from the highway in gardens consisting of mature planting. Mature planting is similarly evident at the appeal site and I observed during my site visit that a hedgerow is situated behind some of the fencing.

9. When approaching from the north of College Lane the fence, given the curve of the road and the layout of buildings, does not affect the setting of the listed building or its aesthetic value. However, in views from the south and opposite the appeal site, the fence, given its height and solid construction, blocks views of both the listed building and the non-designated heritage assets. This reduction in view is particularly apparent when walking the footway alongside the appeal site, which is a view that otherwise still embodies the hierarchy of the appeal site with the listed building.

10. The views are therefore obstructed. It therefore does have a detrimental impact on the manner in which the form of the original farmstead and its relationship to the listed building is understood, despite the conversion of the barn, and otherwise weakens the extent to which the listed building and non-designated heritage assets are appreciated.

11. I am advised that the wall is not a listed structure and so could otherwise be demolished to make-way for a hedgerow alongside the ponds. The appellant states this represents his fall-back position in the event the appeal is dismissed. However, whilst the loss of part of the wall would be regrettable, I place greater weight on the preservation of the setting of the listed building arising from the removal of the fence.

12. I conclude that the fence is harmful to the character and appearance of the area and the setting of Wickham Farmhouse, a Grade II listed building. It therefore fails to accord with Policies DP26 and DP34 of the Mid Sussex District

Plan 2014 – 2031, adopted March 2018. These policies, amongst other things, require development to be of high-quality design, create a sense of place and have special regard to protecting the setting of a listed building. For the same reasons it fails to accord with the conserving and enhancing the historic environment aims of the Framework. Whilst I have been provided with a copy of the Hurstpierpoint & Sayers Common Neighbourhood Plan, made March 2015, my attention has not been directly drawn to any specific contravention therein.

13. In the terms of the Framework, the development results in less than substantial harm and it must therefore be weighed against any public benefit that would arise from it. I appreciate the fence provides privacy for the appellant and stops littering of the pond. However, these are private benefits, which are not matters that can be weighed against the harm to the heritage asset that I have identified. I have limited evidence concerning the potential liability arising from people falling into the pond or vehicle collisions giving rise to bat deaths that are apparently remedied by a taller boundary feature alongside the pond. I therefore afford these matters limited weight which thus do not outweigh the harm I have identified, which itself is of considerable importance and weight.

The ground (f) appeal

14. The purpose of the enforcement notice is to remedy the breach of planning control. Therefore, for an appeal on ground (f) to succeed it would be necessary for the appellant to explain why the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control and propose alternatives to achieve this.

15. The removal of waste and debris arising from compliance with an enforcement notice is a generally well-held requirement. I have not been persuaded on the evidence before me that to do so in this instance would otherwise be excessive.

16. The fence is however not attached to the top of the wall and so has not damaged, if indeed any damage has been done, parts of the wall that are visible. In this regard the need to make-good the wall, if indeed there is any arising need, is excessive in order to remedy the breach of planning control or otherwise address any harm to amenity caused by the erection of the fence.

17. To this extent the appeal on ground (f) therefore succeeds.

The ground (g) appeal

18. The enforcement notice affords a period of 28 days to remove the fence and all waste and debris arising.

19. I appreciate the appellant will need to employ suitable tradesmen. I am however not persuaded on the evidence before me that a period of four months is necessary and so consider that a period of three months strikes an appropriate balance so that the breach of planning control is not unduly perpetuated.

20. To this extent the appeal on ground (g) therefore succeeds.

Conclusion

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

Formal Decision

22. It is directed that the enforcement notice be varied by:

- deletion of the words *'iii) Restore the Land to its condition before the breach took place by making good and repairing any damage caused to the previously existing low flint and brick wall using materials consistent with and matching this existing wall.'*
- Substituting *"3 months"* as the overall period for compliance.

23. Subject to these variations 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