



Appeal Decisions

Site visit made on 16 March 2020

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 March 2020

Appeal A: APP/C1760/C/19/3230794

Appeal B: APP/C1760/C/19/3230795

The land and premises at The Water Tower, St. Peters Close, Goodworth, Clatford, Andover, Hampshire SP11 7SF

- 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 Joe Li of D.C. Li (Builders) Ltd (Appeal A) and Mr Dique Li (Appeal B) against an enforcement notice issued by Test Valley Borough Council.
 - The enforcement notice was issued on 8 May 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission the formation of a gravel hardstanding within that part of the land shown (approximately) hatched blue on the attached plan.
 - The requirements of the notice are: 1) To break up the hardstanding and remove all resultant materials from the land. 2) To restore the land by evenly spreading the topsoil (currently stored in the form of a bund in the approximate position shown hatched green on the attached plan) over the area from which the hardstanding has been removed, levelling, and re-seeding that area with a suitable mix of grass and wild flower seed as indicated in the specification attached at Appendix 1.
 - The period for compliance with the requirements is: Three (3) months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) in respect of Appeal A and (f) in respect of Appeals A and B of the Town and Country Planning Act 1990 as amended. Since an 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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Decision

1. The appeals are dismissed and the enforcement notice is upheld with corrections.

The Enforcement Notice

2. The requirements of the enforcement notice contain two minor typographical errors which I shall correct in my formal decision below. I have also used the corrected version in my banner heading above. Injustice to the parties would not consequently arise from these corrections.

The ground (a) appeal

Main Issue

3. The main issue is the effect of the hardstanding on the character and appearance of the area and with particular regard to a non-designated heritage asset.

Reasons

4. The site is situated in the countryside for planning policy purposes and consists of a parcel of land with a water tower. The water tower was constructed in 1936 and the Council have concluded it to be a non-designated heritage asset. At the time of my site visit scaffolding had been erected in connection with works to convert it into an office. A Public Right of Way (PRoW) bisects the site.
5. The development enforced against relates to an area of gravelled hardstanding, although based upon my site visit it had the appearance of a coarser sub-base material. Nevertheless, the alleged breach of planning control remains correct.
6. The site and its immediate environs are relatively level and there are predominantly open boundary treatments as you approach it. There are properties in close proximity, accessed via St Peters Close, with fields predominantly to the north and east.
7. The hardstanding covers a significant area of the site. The appellant states that a smaller area is now required to be retained owing to the office use of the water tower, and a plan indicating this area has been provided, albeit a comprehensive scheme is not before me. However, even a reduced area would have a detrimental impact on the character and appearance of the area as it fails to integrate or respect the areas character given the type of material used, absence of landscaping and intimate views that are obtained by walking the PRoW that crosses the site.
8. The hardstanding is therefore a conspicuous addition and I do not accept, based upon my site visit, that it cannot be perceived, or that it is only experienced in transient views or that there is adequate screening. The views of the hardstanding are also not appreciably read in connection with the use of the water tower as an office. I appreciate the hardstanding would not affect the wider key valued characteristics of the Andover Chalk Downland Landscape Character Area (the LCA), but neither would it accord with the overall strategy of the LCA that has been brought to my attention, nor enhance the area.
9. I accept that the water tower amounts to a non-designated heritage asset and note the appellant does not contest the view of the Council. The significance of the water tower is derived from its architectural interest and the contribution it makes to the history of Goodworth Clatford.
10. Whilst the scale of the harm to the setting of the water tower itself is not substantial, the hardstanding, given its failure to respect the character of the area, also fails to preserve the setting of the water tower, which has been identified historically as standing in fields¹. This weighs further against the retention of the hardstanding, even in a reduced form. The setting of the water tower has thus been harmfully diminished and given the visibility of the hardstanding from the PRoW, so does its perception from public vantage points. It therefore has an unacceptable negative and harmful impact on this non-designated heritage asset.
11. I accept that it is important to ensure the use of the water tower is optimised. However, I have not been persuaded on the evidence before me that the hardstanding, in either the size that has been constructed, or a reduced size, is in-itself necessary to facilitate the optimum viable use of the water tower. This

¹ Goodworth Clatford Village Design Statement

is because other options to enable the building to be accessed by vehicle, such as different surface treatments or techniques, have not seemingly been explored and with the reasons for being discounted placed before me. The harm I have identified is therefore not outweighed by the use of the building as an office, noting also that I have very little evidence about the occupation of the building and any business/employment provided.

12. I also accept there is likely to be a need to access the water tower by vehicle and potentially for some limited parking. However, I do not find that there is an essential need for the hardstanding the subject of the enforcement notice, or in the reduced form proposed, given that alternatives have not been adequately explored.
13. Given my concerns about the type of materials used and harm to the character and appearance of the area and setting of the water tower, it would not be appropriate to grant planning permission subject to planning conditions given the uncertainty this would introduce. It could also fundamentally change the development that is before me. Moreover, I am also not persuaded that such a proposal would assist in the gravel positively integrating with the landscape character of the area.
14. I conclude that the hardstanding is harmful to the character and appearance of the area and with particular regard to a non-designated heritage asset in contravention of Policies COM2, E1, E2 and E9 of the Test Valley Borough Revised Local Plan DPD Adopted Local Plan 2011-2029, January 2016 (the LP). These policies, amongst other things, require development to be appropriate in the countryside, integrate, respect and complement the character of the area, not have a detrimental impact on the appearance of the immediate area and have regard to heritage. For the same reasons it fails to accord with the conserving and enhancing the historic environment objectives of the National Planning Policy Framework (the Framework).

Other matters

15. The appellant has provided appeal decisions in support of his contention about the need for the development to be located in the countryside and that it is in a sustainable location, as well as highlighting the economic objectives of the LP and Framework. I however note that these matters do not relate exclusively to a hardstanding and that the appellant states the principle concern should be whether the development harms the countryside. I have found this to be the case and other matters, including the potential for mud on the road, do not outweigh my findings.
16. Based on the limited evidence before me, I do not find conflict with Policy T1 of the LP arising from vehicles obstructing the PRow given its route in relation to the water tower. This is however a neutral matter and so does not weigh in favour of retaining the hardstanding.
17. I am advised the Council may have indicated a reduced area of hardstanding to be appropriate, but I am not aware that this was based upon any detailed scheme. In any event, I am not bound by any such indications and my decision does not preclude the parties from discussing other options for the site.

Conclusion

18. For these reasons the appeal on ground (a) fails.

The ground (f) appeal

19. The purpose of the enforcement notice is to remedy the breach of planning control as it does not seek to under-enforce. Therefore, for an appeal on ground (f) to succeed it would be necessary for the appellants 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 lesser alternatives.
20. To this effect the appellants have proposed that a reduced area of hardstanding be retained and be subject to planning conditions. I have accordingly considered the planning merits of this proposal as part of the ground (a) appeal and have found this to not be acceptable. Consequently, the appellants proposed variation to the requirements of the enforcement notice would not be acceptable.
21. As no other lesser steps have been proposed, the appeal on ground (f) fails.

Overall Conclusion

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

Formal Decision – Appeals A and B

23. It is directed that the enforcement notice be corrected by:
- deletion of the words: '*1) To break up he hardstanding and remove all resultant materials from the land*' and their replacement with the words '*1) To break up the hardstanding and remove all resultant materials from the land.*'
 - deletion of the words '*2) To restore the land by evenly spreading the topsoil (currently stored in the form of a bund in the approximate position shown hatched green on the attached plan) over the area from which the hardstanding has been removed, levelling, and re-seeding that area witha suitable mix of grass and wild flower seed as indicated in the specification attached at Appendix 1*' and their replacement with the words '*2) To restore the land by evenly spreading the topsoil (currently stored in the form of a bund in the approximate position shown hatched green on the attached plan) over the area from which the hardstanding has been removed, levelling, and re-seeding that area with a suitable mix of grass and wild flower seed as indicated in the specification attached at Appendix 1.*'
24. Subject to these corrections, the appeals are 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