



Appeal Decision

Site visit made on 4 August 2020

by Mrs H M Higenbottam BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2020

Appeal Ref: APP/K0425/C/20/3247380

21 Wheeler Avenue, Penn, High Wycombe HP10 8EN

- 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 Dias against an enforcement notice issued by Wycombe District Council.
 - The enforcement notice was issued on 4 February 2020.
 - The breach of planning control as alleged in the notice is 'Without planning permission, the erection of trellis panels (shown as a blue line on the attached plan) with a height exceeding 2 metres.'
 - The requirements of the notice are to remove the trellis panels (shown as a blue line on the attached plan) from the Land.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

Appeal on ground (f)

2. This ground of appeal is that 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 those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
3. The Council do not explicitly state whether the purpose of the Notice is remedying the breach of planning control, or whether the purpose is only to remedy the injury to amenity. However, the Council state that the suggested lesser steps set out by the appellant would not overcome the harm from the development. The reasons stated for issuing the Notice are that as a result of the height and its appearance, the trellis appears out of keeping and obtrusive within the street scene, resulting in demonstrable harm to the existing character of the area. As such, I consider that the purpose of the Notice is TO remedy any injury to amenity which has been caused.
4. In an appeal under ground (f) it is not appropriate for arguments on the planning merits of the appeal to be considered. The power available to an Inspector under section 176(1) to vary the terms of the Notice cannot be used to attack the substance of the Notice. Therefore, the issue to be determined in this case is whether the requirements of the Notice exceed what is necessary to remedy any injury to amenity which has been caused by the breach of planning

control. The power to allow an appeal under ground (f) is not a power to grant planning permission.

Reasons

5. The appellant has put forward the following steps to reduce the dominating appearance, improve street scene and enhance the character of the area.
 - Cut off surplus height of all poles to an eaves height of 2.5m;
 - Paint the wooden trellis sections green (this is recorded as being carried out);
 - Plant Italian Cypress trees in front of all wooden poles; and
 - Grow wisteria along the trellis panels.
6. The appellant states he was forced to erect the three high level wisteria trellis panels to address loss of privacy, noise and light pollution issues with the neighbour at No 19. The appellant also refers to other boundary treatments in the area and that they are precedents for the work carried out. However, these are, in my view, planning merit arguments and, as such do not address the issue of the requirements being excessive in relation to remedying the injury to amenity resulting from the erection of the trellis on the character and appearance of the area. Issues of the planning merits of the trellis cannot be considered under a ground (f) appeal.
7. The trellis is clearly seen within the street scene particularly when travelling along the Wheelers Avenue from the south, around its junction with Finch End. It is also clearly viewed when directly in front of No 21, in short distance views travelling from the west/north west towards Finch End and when walking along the path between No 19 and 21. Most front gardens within the immediate area are open landscaped areas with driveways. There is no wall or fencing subdividing the front gardens between Nos 21-27 and Nos 22 to 28 in particular. No 2 Finch End has a flank timber boundary fence fronting Wheelers Avenue.
8. While there are examples of timber fencing within the immediate area, these are generally of a consistent height and around 2m or less. In the case of the appeal trellis this has been attached to an existing boundary fence, is significantly higher than the fence it is attached to and fails to relate to any built feature or planting. It creates an incongruous and prominent projection along the fence line. It significantly detracts from the character and appearance of the area.
9. I appreciate that the intention of the appellant is to allow the wisteria to grow and flourish over the trellis, such that if this is successful the trellis would be engulfed within the vegetation. This would not, to my mind, remedy the harm to amenity of the trellis. The planting of Italian Cypress trees would hide the trellis from some viewpoints, thus mitigating some of the harm to amenity over time. However, it would not remedy the harm to amenity caused in views from the path and from short distance views through the trees or if the trees did not flourish. As such, it would not remedy the harm to amenity the trellis has caused.
10. I find that the proposed lesser steps would not remedy the injury to amenity caused by the breach of planning control. As such, I find that the requirements of the Notice are not excessive.

Other matters

11. The appellant's submissions refer to the significant height of Lleylandii and that there is trellis on the boundary fence of No 19. Other issues relating to No 19 and its relationship to No 21 and the amenity of the occupiers at No 21 are also referenced. However, these are issues outside the scope of the Notice and a ground (f) appeal and as such are not matters before me in this appeal.

Conclusions

12. For the reasons given above I consider that the appeal should not succeed.

Hilda Higenbottam

Inspector