



Appeal Decision

Site visit made on 14 September 2020

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 12 October 2020

Appeal Ref: APP/M1595/C/20/3244584

Land adjacent to Laurel Drive, Ockendon, Essex behind/or to the side of properties at 7-9 Laurel Drive and 42 Sycamore Way, and runs from the south side of Sycamore Way

- 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 Vincent David Robinson against an enforcement notice issued by Thurrock Borough Council.
 - The enforcement notice was issued on 19 December 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the change of use of the Site from open land located in the Green Belt to enclosed residential amenity land for the benefit of 7 Laurel Drive including the laying of hardstanding, creation of a footpath, the depositing of materials (wood chips, bedding areas and wooden logs), the removal of trees and the erection of a metal security fence.
 - The requirements of the notice are to:
 - (i) Cease the use of the Site as residential amenity land and remove the following from the Site: (a) all hard standing, fencing and gates (b) all bedding areas (c) all wood chip (d) all piles of wooden logs and (e) all materials/Waste from the Site resulting from the above actions.
 - (ii) Replace all trees that have been removed from the Site.
 - (iii) Restore the Site back to its original condition before the breach took place.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (b) (d) (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed and the enforcement notice is quashed.

Ground (b)

2. For an appeal to succeed under this ground, the appellant must satisfy me on the balance of probabilities that the matters stated in the notice constituting an alleged breach of planning control have not occurred.
3. The appeal site is a relatively long and thin parcel of land that has for over 20 years acted as a buffer between dwellings that were built as part of the Brandon Groves residential estate development and public open space to the east which had previously been set aside for the building of a school.
4. I have seen evidence from the appellant, which I accept, highlighting that the site's purpose as a buffer strip has for some years made it distinct in character from the open land to its east (and historically separated from it by a fence, at least at times, according to photographic evidence) and had become overgrown with trees and vegetation before purchase by the appellant.

5. I place significant weight on evidence from several neighbours bordering the site which support the appellant's claim that since his purchase of it he has purposefully removed and trimmed some of the trees and otherwise managed the buffer strip (including the installation of a new fence broadly where one had historically existed) to maintain a biodiverse wooded area while reducing the harm to neighbouring residential living conditions caused by the pre-existing overgrown nature of the land.
6. The neighbours' evidence (and the evidence as a whole) does not cause me to conclude that the land has been subsumed into the appellant's residential curtilage, but rather that it remains a buffer of materially the same character as before albeit one that is being actively managed by the appellant to the benefit of neighbouring properties and is therefore less overgrown. My site visit observations were consistent with that view, with logs and woodchips apparently remaining in situ from tree management work and retained for reasons of biodiversity. I also accept the appellant's submission that as part of the landscaping of the buffer area, he had laid (and subsequently removed) a number of paving slabs and brought on to the site some aggregate to improve the site drainage condition. However, these items in totality with the former 2 pieces of timber removed from the land do not in my view amount to "residential paraphernalia" as referred to in the notice and do not persuade me that the use of the land had changed to one of a more domestic character.
7. While the southern section of the site is largely clear of vegetation, and is grassed, it is separated from the residential curtilage of 7 Laurel Drive by a low fence and I accept the appellant's submission that the cleared area and low fence together seek to improve outlook and light levels from/to the windows of the 2015 extension built very close to the boundary while not forming part of the property's garden.
8. Therefore, I find as a matter of fact that there has not been a change of use of the site from open land to enclosed residential amenity land for the benefit of 7 Laurel Drive.

Conclusion

9. For the reasons given above I conclude that the appeal should succeed on ground (b). Accordingly, the enforcement notice will be quashed. In these circumstances the appeal under grounds (d), (f) and (g) set out in section 174(2) to the 1990 Act as amended do not need to be considered.

Andrew Walker

INSPECTOR