



Appeal Decision

Site visit made on 6 October 2020

by S Hanson BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2020

Appeal Ref: APP/K0425/C/20/3251091

17 Hughenden Road, High Wycombe, Buckinghamshire HP13 5HS

- 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 J Barar against an enforcement notice issued by Wycombe District Council.
 - The enforcement notice was issued on 16 March 2020.
 - The breach of planning control as alleged in the notice is Without planning permission the erection of fencing, gate and trellis (shown as a blue line on the attached plan) exceeding one metre in height adjacent to the highway .
 - The requirements of the notice are 1) Either: (a) Remove entirely from the land the fencing, trellis and gate as mark blue on the attached plan; or (b) reduce the height of the fencing, trellis and gate shown in blue on the attached plan so that it does not exceed one metre in height at any point when measured from natural ground level; and 2) remove all resultant material and debris from the land.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended (the 1990 Act).
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under s177(5) of the 1990 Act.

The appeal on ground (a) and the deemed planning application

Main Issue

2. This is the effect of the development on the character and appearance of the property, the street scene and the area.

Reasons

3. The appeal property is in a mainly residential area on the western side of Hughenden Road to the north of the town centre. The property is currently used as a block of 4 self-contained residential apartments. Properties on both sides are set back from the street with open parking areas and boundaries defined by brick walls. These give the immediate area a distinctly utilitarian and predominantly uniform appearance within the street scene.
4. A prevailing feature on the western side of Hughenden Road is the front boundary treatments which are mostly defined by low level brick walls enclosing small areas to the front of properties. These are a principal feature of the urban environment that characterise this immediate area.

5. The appeal development consists of panelled fencing, a pedestrian gate and trellis which runs around both sides and the front boundary of the open space, adjacent to the highway. I note the purpose of the open space to the front of the property was defined as private amenity space for the ground floor flat. Furthermore, I acknowledge the appellant's reason for the fence is to create a secluded space for that unit and without the fence this would defeat its purpose as a private space, rendering it unusable.
6. It is apparent that the building has undergone considerable extension, alteration and change in recent years. However, the boundary treatment to the appeal site, with the addition of the timber fencing is an incongruous feature in the road. Because of the height, design and contrasting materials of the additions to the original boundary, the development forms a structure which jars with its neighbours and, being at eye level, draws unwarranted attention.
7. Overall, I find that the development is highly conspicuous and discordant in a prominent position and contrasts with the simple clean lines of the low level brick walls of the adjoining properties. This contrasting style substantially alters the character of the property within the street scene and this is considered particularly harmful to the property and the prevailing character of the immediate area.
8. For these reasons, I find conflict with Policy DM35 of the Wycombe District Local Plan 2019 insofar as it seeks development to demonstrate attractive and high quality design of appropriate character in the scale, form and layout of buildings, and the structures and spaces around them. In this respect, I also find conflict with the guidance in the National Planning Policy Framework.

Other matters

9. The appellant considers that the Council's view that the development 'would set an undesirable precedent for similar proposals, which cumulatively would further harm the character and appearance of the locality', conflicts with the general and well established principle that each proposal should be considered on its individual planning merits. Nevertheless, it is realistic to consider that there may be a reasonable prospect of similar development being repeated nearby and that if similar development were repeated, the cumulative effect would be considered harmful.

The appeal on ground (f)

10. The appeal on ground (f) is that the requirements of the notice exceed what is necessary to remedy the injury to amenity, which has been caused by the breach of planning control. Section 173(3) of the 1990 Act requires that an 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 remedy the breach of planning control set out in section 3 of the notice.
11. The enforcement notice refers to the development being 'highly incongruous and a dominant form of development' which is 'unduly prominent in the street scene and detrimental to the character and visual amenities of the area'. The steps required by the notice, stipulate the complete removal, or the reduction in height to 1 metre from natural ground level, of the boundary fence, trellis and gate to remedy the breach of planning control. This requirement is in accordance with s173(4)(a) of the 1990 Act.

12. The appellant suggests that lesser steps than those set out in the notice would overcome the objections to the scheme. Such lesser steps could include tapering and lowering the fence/trellis, in a manner not dissimilar to that proposed under the terms of application 20/05060/FUL and shown as such in the plans that were provided with the appellant's statement.
13. I have considered this proposal but do not agree that this would be a reasonable and obvious alternative as detailed in my decision on the appeal against ground (a). The issued requirements do not exceed the purpose behind the notice, requiring the appellant to undo what has been done, with the option to reduce the height of the boundary fence, gate and trellis so that no part exceeds 1m above ground level, thereby meeting the requirements, limitations and conditions within Class A of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This is a reasonable remedial alternative rather than purely punitive.
14. The lesser steps advanced by the appellant would not achieve the purpose behind the requirements of the notice and the steps required do not exceed what is necessary to do so, because the notice seeks to remedy the breach of planning control.
15. The appeal on ground (f) fails.

Overall Conclusion

16. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

S Hanson

INSPECTOR