



Appeal Decisions

Site visit made on 13 October 2020

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2020

Appeal A: APP/L3815/C/20/3249680

Appeal B: APP/L3815/C/20/3249681

Land at Oakham Farmhouse, Church Lane, Oving, Chichester, West Sussex

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Daniel Isom (Appeal A) and Mrs Claire Ann Francis (Appeal B) against an enforcement notice issued by Chichester District Council.
 - The enforcement notice was issued on 13 February 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a closed boarded fence in the approximate position shown on the attached plan to the notice.
 - The requirements of the notice are: Remove the close board fencing, gravel boards and posts from the Land.
 - The period for compliance with the requirements is: Three months.
 - The appeals are proceeding on the grounds set out in section 174(2)(a) and (f) 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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Summary of Decisions – Appeals A and B

1. The appeals are dismissed and the enforcement notice upheld.

The ground (a) appeal

Main Issue

2. The main issue is the effect of the fencing on the character and appearance of the area.

Reasons

3. The site is situated in rural surroundings on a corner with Church and Ham Lanes, away from the settlement boundary of Oving. There is however a mix of uses in the wider area as well as different types and styles of residential development.
4. The fencing attacked by the enforcement notice is approximately 2 metres in height and runs the extent of the appeal sites frontage with both Lanes. It consists of close board timber panels set within concrete posts and gravel boards. It was constructed principally for security purposes.

5. Whilst the character of the wider area is to some degree mixed, I do not accept the appellant's contention that the Lanes are not rural, which I could see during my site visit were typically bounded by trees and hedgerows.
6. The fencing is of solid design and of considerable length. It is a particularly stark boundary treatment. It is therefore an incongruous addition in this area of strong underlying rural character, and, from a visual perspective detracts from its character and appearance. The fencing is of poor design within its context and fails to take the opportunities available for improving the character and quality of the area.
7. The fencing is prominent in views along the Lanes and I do not consider that as it weathers, and trees mature around it, it will adequately ameliorate its presence within the street-scene. That it cannot be seen in long distance views, other than from those plainly along the Lanes themselves, does not particularly assist the case of the appellant's given its actual prominence in this location.
8. I note that the retention of the fencing is supported by a neighbouring occupier, and it is said to have replaced previous fencing. I also appreciate that there are other examples of similar and indeed other types of fencing in the wider area, including a nearby housing development, as well as there being security benefits associated with the fencing. However, these matters are not sufficient to convince me to grant planning permission for development that is harmful in itself, particularly as there is little evidence before me of alternatives that have been considered and why they may have been discounted.
9. I am therefore not persuaded that the fencing respects and enhances the landscape character of the surrounding area and site. For the same reasons, a fence of reduced height would still remain conspicuous. I appreciate that the appellant's wish to ensure a means of enclosure is maintained, but I have little evidence that a fence, of reduced height, would adequately deter crime or secure their curtilage in this regard. I am also not persuaded that the fencing improves highway safety, only that works to facilitate it may have reduced some encroachment.
10. I conclude that the fencing is harmful to the character and appearance of the area in contravention of Policy 48 of the Chichester Local Plan: Key Policies 2014-2029 (the LP). This policy, amongst other things, requires development to respect and enhance the landscape character of the surrounding area and site. For the same reasons the fencing fails to accord with the achieving well-designed places objectives of the National Planning Policy Framework. I however do not find Policies 33 and 45 of the LP to be directly relevant as these are concerned with new residential development and development that requires a countryside location.

The ground (f) appeal

11. The purpose of the enforcement notice is clearly to remedy the breach of planning control and it does not seek to under-enforce. 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 lesser alternatives steps.

12. The appellants contend that the breach of planning control is the erection of a means of enclosure, fronting a highway which exceeds 1 metre in height. It is then highlighted that a fence in this location, not exceeding 1 metre in height, would be permitted development.
13. However, the breach of planning control relates to the entirety of the fencing, as constructed, as opposed only the upper part of it. It was a single building operation in this regard and reducing the height of the fencing could not, retrospectively, make the remainder lawful permitted development. I have also already considered the planning merits of a reduced height fence under the ground (a) appeal.
14. Accordingly, whilst I accept that some form of fencing could be erected on the boundary as permitted development, to otherwise only require a reduction in the height of the fencing would still not remedy the breach of planning control enforced against; which is namely the erection of a close boarded fence, not merely a part of it. The requirement to remove it is therefore not excessive in order to remedy the breach of planning control and lesser steps would not overcome the objections.
15. As there are no other lesser alternative steps before me, the appeal on ground (f) fails.

Overall Conclusion

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

Formal Decisions – Appeals A and B

17. The appeals are dismissed and the enforcement notice is upheld. 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