



Appeal Decision

Site visit made on 25 May 2021

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 15 July 2021

Appeal Ref: APP/E2734/C/21/3268528

The Barn, 25 Castle Street, Spofforth, Harrogate, North Yorkshire HG3 1AP

- 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 Ms Julia Cooke against an enforcement notice issued by Harrogate Borough Council.
- The enforcement notice was issued on 16 December 2020.
- The breach of planning control as alleged in the notice is the erection of a timber fence in excess of 2 metres in height.
- The requirements of the notice are to either:
 - a) Remove the timber fence in its entirety
 - or
 - b) Reduce the height of the timber fence to a height not exceeding 2 metres.
- The period for compliance with the requirements is 1 month.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a variation.

This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 9 June 2021.

The appeal on ground (a)

1. The ground of appeal is that planning permission should be granted. The main issues are:
 - i. the extent to which the development preserves or enhances the character or appearance of the Spofforth Conservation Area; and
 - ii. the effect on the living conditions of the occupants of a neighbouring property with particular reference to outlook.

Conservation Area

2. The appeal property is a semi-detached stone built converted agricultural building which incorporates a slate roof. It has a small garden area to the front and a larger garden area to the rear. The rear garden is enclosed on three sides and the boundaries comprise a high stone wall, single storey stone outbuilding and timber fencing along the shared boundary with the adjoining residential property. The Barn incorporates four storeys of split level living accommodation, leading to there being floor level windows in the first floor of the dwelling. It is situated within the Spofforth Conservation Area.

3. The Spofforth Conservation Area Character Appraisal Approved 15 October 2008 (the CACA) identifies the appeal site and neighbouring buildings as being of local interest. The stone wall to the front of the property is identified as an important stone boundary wall. With respect to boundaries, the CACA states that boundary walls and hedges are fundamental to the character of the village and important views contained within. It is also noted that front and rear gardens make an important contribution to the streetscape and character of the area.
4. The enforcement notice relates to an addition to the existing timber fence situated along the shared boundary of two residential properties which results in it being greater than 2 metres in height. The addition is covered in artificial green plastic leaves.
5. The development is highly visible and prominent from the rear garden and also from that of the adjoining property from where it appears as a highly prominent and visually incongruous feature. There are other high boundaries in the immediate vicinity, but the development in question contrasts greatly with the existing boundary treatments in the locality with particular reference to its materiality and external appearance. The appellant argues that the artificial hedging is realistic in nature and mirrors hedging found elsewhere nearby, but I dispute this as the material used is plastic and is a poor, artificial and inappropriate representation of the planting found elsewhere in the vicinity and the wider Conservation Area.
6. The boundary treatment can also be seen in glimpses from School Lane but is not prominent to a degree where it can reasonably be described as being visually intrusive or dominant within the wider Conservation Area setting. Nonetheless, with respect to its overall height and the use of an unsympathetic artificial covering it fails to preserve or enhance the character and appearance of the Conservation Area. It fails to have regard to the setting of the buildings of local interest and the boundaries that are specifically identified in the CACA as being fundamental to the character of the village and important views.
7. Given the above, I find that the proposal, taken as a whole, would fail to preserve the character and appearance of the Spofforth Conservation Area. Paragraph 193 of the Framework advises that when considering the impact on the significance of designated heritage assets, great weight should be given to their conservation. In terms of the Framework, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
8. Under such circumstances, paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The appellant states that the primary reason for the development is for privacy and security. I have considered these potential benefits, but conclude that they are private, rather than public benefits. Therefore, in the absence of any significant public benefit, I conclude that, on balance, the proposal would fail to preserve or enhance the character or appearance of the Spofforth Conservation Area. This would fail to satisfy the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990, paragraph 192 of the Framework and conflicts with Policies HP2 and HP3 of the Harrogate District Local Plan 2014-2035 March 2020 (the LP) which among other objectives seek to ensure that development proposals affecting a conservation area protect, and where

appropriate, enhance those elements that have been identified as making a positive contribution to the character and special architectural or historic interest of the area

Living conditions

9. The high fence is situated along the shared boundary of two residential properties, adjoining rear walls. The neighbouring property does not have habitable room windows adjacent to the fence and in addition, the orientation of the buildings and fence mean that there is unlikely to be a material loss of daylight or sunlight associated with the development. Nonetheless, the high boundary treatment is highly visible from the neighbour's rear garden area and is a dominant and overbearing feature. The overall height of the development, the materials used to cover it and its close relationship to the neighbouring rear garden mean that it is particularly intrusive to the detriment of the outlook from the rear garden area.
10. Consequently, on this issue I conclude that the development is harmful to the living conditions of the occupants of a neighbouring property with particular reference to outlook. As such it is in conflict with Policy HP4 of the LP which states that developments should be designed to ensure that they will not result in significant adverse impacts on the amenity of occupiers and neighbours. By reference in the policy to the word "overbearing" this clearly includes outlook.

Other matters

11. The appellant contends that the fence improves security to the property, but I cannot see that this is a reasonable argument since only part of the fence is higher than the remainder. As such it is unlikely that the development materially improves security.
12. It is also argued that the fence protects privacy. I observed the rather unusual split level arrangement of accommodation at the appeal property which has led to there being a floor level windows in the rear elevation. The fence in question may result in some marginal improvement to the privacy enjoyed by the occupant of the appeal property, but not to a significance degree.
13. The fence may have a marginal noise mitigation effect, but in the absence of clear evidence of this benefit and given the height of the rest of the boundary fence between The Barn and Stockhill Cottage, I consider this is unlikely to be significant.
14. Therefore, I do not find that these other matters outweigh the harm I have identified above with respect to the Spofforth Conservation Area and living conditions of the neighbouring occupants.

The appeal on ground (g)

15. The ground of appeal is that the time given to comply with the requirements is too short. The one calendar month given would be sufficient to remove the timber fence in its entirety or reduce its height. The appellant has not specified an alternative time period but given the ongoing Covid-19 pandemic restrictions and associated potential delays in carrying out the works to the property, I consider the period should be extended to enable the appellant adequate opportunity to comply with the requirements. In this respect I

consider two months would not place a disproportionate burden on the appellant. To this limited extent the appeal on ground (g) succeeds.

Formal Decision

16. I direct that the enforcement notice is varied by the deletion from paragraph 5 of the words "1 month" and the substitution therefor of the words "2 months" as the time for compliance with the requirements.
17. Subject to this variation the appeal is dismissed, 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.

A A Phillips

INSPECTOR