



Appeal Decision

Site visit made on 22 September 2021

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd September 2021

Appeal Ref: APP/E2734/C/21/3272556

The land situate and known as Orchard Corner, Arkendale Road, Staveley, Knaresborough, North Yorkshire HG5 9JX as shown edged red on the attached plan

- 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 Miss Olivia Pembleton against an enforcement notice issued by Harrogate Borough Council.
 - The enforcement notice, numbered 19/00373/PR15, was issued on 10 March 2021.
 - The breach of planning control as alleged in the notice is the erection of gates and gate posts in excess of 1 metre in height adjacent to the highway.
 - The requirements of the notice are either i) remove the gates, gateposts and all materials in their construction from the land, or ii) reduce the height of the gates and gateposts to a height not exceeding 1 metre.
 - The period for compliance with the requirements is 4 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice be varied by deleting '*4 months from the date upon which this Notice takes effect*' in part 5 and replacing it with '*7 months from the date upon which this Notice takes effect*'. Subject to this variation, the appeal is dismissed and 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.

Procedural Matter

2. The National Planning Policy Framework was revised in July 2021 (the Framework) and this post-dates the date of the issued enforcement notice. The amendments to the Framework have not had a significant bearing on the consideration of the ground (a) appeal. Consequently, there was no requirement for me to seek further submissions from the main parties on the revised Framework, and no party's interests have been prejudiced by me taking this approach.

Reasons

Ground (a) appeal and the deemed planning application

3. The appeal is made under ground (a) which is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice. I have considered the reasons for issuing the enforcement notice and the main

- issue is the effect of the breach of planning control on the character and appearance of the area.
4. The gates and gateposts were considered by a Planning Inspector in July 2020 in respect of a dismissed planning application appeal¹. I have taken this decision into account as a material planning consideration as part of the consideration of this ground (a) appeal.
 5. As part of my site visit, I was able to consider the breach of planning control in the context of the locality. I agree with the aforementioned Planning Inspector that the frontage of residential properties in this extent of the streetscape is characterised by mainly high hedges and open vehicular access points. The open access points, coupled with hedgerow planting, are seen by the passer-by as a pleasant and uniform pattern of townscape adding positively and distinctively to the character and appearance of the area.
 6. In the context of the above, the grey gates are seen as dominant and enclosing structures in the street-scene detracting unacceptably from the pleasing rhythm of open accesses in this area. While entrance posts are not an uncommon feature in Arkendale Road, they are in relative terms not as high or as imposing as the posts that are the subject of this appeal. Consequently, they are not conspicuous in the street-scene given the use of mainly masonry materials which are in muted tones.
 7. The appeal gateposts are high, finished in a grey rendered finish and include lights, a key pad and a letter box. While it may be possible to opt for gateposts finished in a colour which is more in-keeping with the area, this would not overcome the harm caused to the area arising out of their overall size, the use of render, and the inclusion of lights, a letter box and key pad, the latter of which are not characteristics that are prevalent in other access posts in the area.
 8. I note the appellant's comment that in this part of Arkendale Road the dwellings are more contemporary in relative terms. I do not disagree with this, but that does not in itself justify allowing a form of prominent frontage development which is materially at odds with the other frontage development in this part of street. I acknowledge that further down Arkendale Road, some of the properties have gates. However, these gates are limited in number and are some distance from the appeal site. Where they do exist, they are more in-keeping with the immediate locality.
 9. The appellant has commented that the gates are needed for security reasons and as traffic speeds are high on Arkendale Road. However, I have not been provided with any objective evidence to demonstrate that there have been any problems at the property from a crime point of view, or that in the absence of gates the occupiers of the appeal property would be at risk from vehicles using Arkendale Road. In any event, any concerns about the latter matter could be addressed in so far that one of the options in the requirements of the notice is to reduce the height of the gates and gateposts to a height not exceeding 1 metre. This reflects what could take place utilising permitted development rights in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

¹ Appeal Ref N APP/E2734/D/20/3250001

10. For the above reasons, I conclude that the breach of planning control causes significant harm to the character and appearance of the area. It does not therefore accord with the character, appearance and design requirements of policy HP3 of the Harrogate District Local Plan 2020, chapter 12 of the Framework and the advice of the Council's House Extensions and Garages Design Guide Supplementary Planning Document 2005. None of the other material considerations raised by the appellant outweigh the conflict with the development plan for the area. Therefore, the ground (a) appeal fails.

Ground (f) appeal

11. An appeal on ground (f) makes the claim 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.
12. The appellant's ground (f) appeal is made on the basis that an alternative step would be to opt for gates and a fence which did not exceed 1.4 metres in height. The claim is that the notice requirement of either removing the development or reducing it in height so that it is no higher than 1.0 metre in height, is excessive. However, I find that the harm that I have identified in respect of the ground (a) appeal would be similarly apparent to the passer-by if the development were to be 1.4 metres in height.
13. The notice gives an option of reducing the height of the development to 1.0 metre in height, but this is not necessarily because such development would be fully acceptable in design terms. However, I consider that such an alternative requirement in the notice is reasonable in so far that the evidence is such that new development could be constructed utilising permitted development rights in the GPDO. In other words, this is a material planning consideration which justifies the alternative requirement in the notice.
14. This 1.0 metre height option in the notice would be more acceptable in planning terms than the provision of 1.4 metre high gates and gateposts. Indeed, 1.0 metre high gates and gateposts would, in relative terms, be less dominant and enclosing in the street-scene and to the passer-by the access would appear more open.
15. I therefore find that the steps required by the notice are not excessive in so far as either remedying the breach of planning control or remedying the injury to amenity which has been caused by such a breach. Therefore, I concluded that the ground (f) appeal fails.

Ground (g) appeal

16. The appeal on ground (g) is that the period specified in the notice in accordance with s173(9) falls short of what should reasonably be allowed. The compliance period in the notice is four months. The appellant's claim under ground (g) is that due to the Covid-19 pandemic builders are 12 months behind and it would not be possible to get a builder to comply with the requirements of the notice until April 2022.
17. While the appellant has not provided me with any objective evidence to demonstrate that all builders are 12 months behind with their work, I do not doubt that there are likely to be some difficulties, from a timescale point of view, in getting a builder to do work quickly. Taking into account the

appellant's indication that a builder could start work in April 2022, it is reasonable that I vary the compliance period from four to seven months. To this extent, the ground (g) appeal succeeds.

Conclusion

18. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the deemed application.

D Hartley

INSPECTOR