



Appeal Decisions

Site visit made on 25 July 2022

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 August 2022

Appeal Refs: APP/W2845/C/21/3279852 and 3279864

4 Oakham Lane, Staverton, Northamptonshire, NN11 6JQ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended (the Act). The appeals are made by Mr Corin Ashby (3279852) and Mrs Emma Ashby (3279864) against an enforcement notice issued by West Northamptonshire Council.
 - The notice was issued on 1 July 2021.
 - The breach of planning control as alleged in the notice is, without planning permission, the demolition of the front western boundary wall and construction of new boundary wall.
 - The requirements of the notice are a) to reinstate the stone wall to its former height, position and design, reusing the stone materials of the former/existing wall. Any mortar used shall closely match those of the existing adjoining boundary wall.
 - The period for compliance with the requirements is six months.
 - The appeals are proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the Act and the appeal by Mr Ashby is also proceeding on the grounds set out in section 174(2)(a) of the Act.
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Decision

1. The appeals are allowed and the enforcement notice is quashed.

Reasons

The ground (c) appeals

2. 4 Oakham Lane is an end-terraced two storey dwelling in a terrace of four dwellings on the east side of the lane. The wall that was demolished and which is the first subject of the alleged breach of planning control was along the lane frontage of the property. The new boundary wall that is the second subject of the alleged breach of planning control is not on the boundary between two properties, but extends back perpendicular to the lane frontage and separates what is intended to be a hardstanding area and part of the garden at the appeal property.
3. Much of the village is designated as Staverton Conservation Area (SCA) and an Appraisal and Management Plan (AMP) for this designated area was adopted in October 2019. The plans included in the AMP show the extent of the SCA, colour washed in pink. Some areas of the village, including that occupied by the terrace and other dwellings to the north, south and south-east, are excluded from the designated area. Figure 15 is one of the plans in the AMP and identifies 'important walls'. The demolished boundary wall that is the subject of the enforcement notice is identified on the plan as an important wall.
4. The main parties dispute whether the demolished boundary wall was inside or outside the SCA. Figure 15, in this regard, is unhelpful because it identifies important walls that have areas of the village excluded from the SCA on both sides, so they cannot be inside the SCA. For instance, there is a long section of

important wall, continuous apart from driveway openings, extending along the frontages of 1 and 2 Windmill Lane and 5 and 6 Daventry Road, which is outside the SCA. A separate plan submitted by the Council purports to show the SCA cross hatched and edged in yellow. But this plan is also unhelpful because it is not titled, does not have a key, and only shows part of the village.

5. Planning permission would not be required for the demolition of part of a wall, even if it is identified as being 'important', if it is not in the SCA, such as that noted above. For walls at the edge of the SCA, whether identified as being important or not, it is necessary, particularly in this case where this matter is disputed, to establish whether the demolished wall was inside or outside the SCA.

6. The Council's position on this matter, with reference to paragraph 3.1 of their appeal statement, is that "...the front boundary of 4 Oakham Lane...(is)... situated on the boundary with the SCA...". It is worth noting that the Council does not claim that the 'front boundary wall' of 4 Oakham Lane is on the boundary with the SCA, but that the 'front boundary' of 4 Oakham Lane is on the boundary with the SCA. In this regard it is reasonable to presume that the boundary of the appeal property coincides with the boundary of the SCA. On the basis of the Council's position it is necessary to ascertain where the front boundary of 4 Oakham Lane is, because this will also be the boundary of the SCA.

7. Individual properties are defined on the plan of the SCA by thin grey lines and it can be assumed that these lines define property ownership. The Appellants own the appeal property and since the Council has made no claim that the Appellants didn't own the demolished boundary wall, on the contrary, it is reasonable to assume that the property boundary is the outer face of the demolished wall. As a matter of judgement the boundary of the SCA, in this location, is the outer face of the now demolished boundary wall, which was not, as a matter of fact and degree, in the SCA.

8. With regard to the first element of the alleged breach of planning control the boundary wall that was demolished was not in the Staverton Conservation Area and planning permission was not required for the works of demolition.

9. With regard to the second element of the alleged breach of planning control the wall constructed, as noted above, is not a boundary wall but partly subdivides the appeal property. The construction of a wall is development permitted under the provisions of Class A of Part 2 of Schedule 2 of The Town and Country (General Permitted Development) (England) Order 2105 as amended (the GPDO). With regard to the limitation to this permitted development right set out in section A.1(a)(ii) the wall abuts a highway but because it has been constructed perpendicular to the highway it is not, as a matter of fact, 'adjacent to a highway'.

10. Planning permission was not required for the demolition of the front western boundary wall and the construction of the new wall, setting aside the fact that it is not a boundary wall, is development permitted by the GPDO. The ground (c) appeals thus succeed. In these circumstances the other grounds of appeal do not need to be considered.

John Braithwaite

Inspector