



Appeal Decision

Site visit made on 1 November 2022

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 16TH DECEMBER 2022

Appeal Ref: APP/A3655/C/21/3280921

Land at Broadoaks, Ivy Lane, Woking, Surrey GU22 7BY

- 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 Ross Lindsay against an enforcement notice issued by Woking Borough Council.
 - The enforcement notice was issued on 13 July 2021.
 - The breach of planning control as alleged in the notice is Without planning permission the erection of a timber fence in excess of 1m in height adjacent to a highway, to the front and part of the side boundaries of the land and extending for a length of approximately 34m and as shown in the approximate position as a black dotted line on the attached Plan.
 - The requirements of the notice are: (i) Remove the fence along the front and part of the side boundaries of the Land marked with a black dotted line on the Plan or reduce the height of the fence so that it does not exceed 1 metre in height above ground level; and (ii) To remove from the Land all materials, rubble, debris and paraphernalia associated with and arising from compliance with requirement (i) above.
 - The period for compliance with the requirements is Three (3) months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal is brought on ground (a), an application for planning permission is deemed to have been made under s177(5) of the Town and Country Planning Act 1990.
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Preliminary Matters

1. The National Planning Policy Framework was revised in July 2021 (Revised Framework). The parties were given an opportunity to comment on this, and comments made have been taken into consideration.

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

Main Issue

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

Reasons

3. The appeal site is the plot of the single storey dwelling 'Broadoaks' which sits at the bend of the private road known as Ivy Lane. The appeal property sits therefore between two stretches of Ivy Lane, each of which has a fairly different character. The section running roughly west-east towards Old Woking Road sees houses positioned fairly far back from the road, with some spaced quite far apart from each other. Coupled with mature trees and other

greenery, the overall effect is of a semi-rural character. The stretch of Ivy Lane running roughly southwards from Park Road sees houses positioned closer to the road with less well-established greenery. The width of the road along this stretch contributes to a sense of spaciousness.

4. It is not characteristic of either stretch of Ivy Lane for properties to have a considerable length of high fencing positioned very close to the boundary with the road. Other properties on Ivy Lane generally either have higher fencing set further back from the road, a shorter stretch of high fencing, or a lower fence closer to the road boundary.
5. Consequently, in this context, the height of the fencing at the appeal site, coupled with its close proximity to the road and the length of the stretch of fencing renders it a visually discordant urban feature, out of character with the more open, semi-rural surroundings. The prominent position of the appeal property on a bend in the road means that this visual harm is readily apparent in views from Ivy Lane.
6. The appellant comments that a survey has been undertaken indicating that some 73% of properties on Ivy Lane have boundary treatments of a height 'equal to or exceeding that of the fence erected by the appellant'. I concur with the Council's comment though that it is unclear whether the appellant refers in this regard to only high fences, or to high hedges or other planting. As outlined above, high fences positioned close to the road running for a significant length like the appeal fencing are not characteristic of Ivy Lane. High hedges or other greenery do not have a comparable harmful effect on character since they do not result in a hard, urban appearance.
7. I acknowledge that the property opposite the appeal site 'Oak Hatch' has high close boarded fencing for a fairly long length along its boundary with the road. However, this can be distinguished from the appeal fencing as it sits further back from the road with grassed space in-between. Thus it does not result in a comparably enclosing and built-up appearance to that at the appeal site. I note also comments that the appeal fence has been erected using sustainable materials and designed to follow the contours and the varying gradients of the road. These matters do not overcome the visually discordant enclosing and urban appearance of the appeal fencing.
8. The appellant proposes that a condition could be imposed to require implementation of a landscaping scheme to seek to soften the appearance of the fencing. I share the Council's concerns though as to whether such a scheme would be feasible in reality given the limited space available between the fence and the road. As such, on the evidence before me, imposition of this condition would not overcome the visual harm identified above. It would not therefore justify the retention of the appeal fencing, even as compared to the lesser step in the notice requirements to reduce the height of the fencing without additional planting.
9. I find then as regards the main issue that the appeal fencing has a materially harmful effect on the character and appearance of the area. It conflicts thus with Policy CS21 of the Woking Borough Core Strategy (2012) which requires that new development makes a positive contribution to the character of the area. There is conflict also with paragraph 130 of the Revised Framework in the same regard. There is a failure to accord also with the Woking Design SPD (2015) which emphasises the importance of appropriate boundary treatments

addressing the public streetscape on the character of the area. I find though no direct conflict with the Outlook, Amenity, Privacy and Daylight SPD (2008).

Other Matters

10. I note comments effectively that the appeal fencing has been erected to create a more useable outside amenity space and to alleviate light intrusion from car headlights. It is also apparently to afford some additional protection to an electrical substation. However, mature hedging positioned behind a lower fence would in my view result in comparable benefits in these respects without the equivalent visual harm which results from the appeal fencing.
11. I sympathise with the appellant's position in not realising that planning permission was necessary for the appeal development and acknowledge the attempt made to regularise the situation¹. The absence of harm to living conditions of neighbouring residents and relatively low number of objections are also noted. However, these matters do not obviate the harm identified.
12. Concerns from third parties related to a claimed right of way are noted but are not supported by substantive evidence. The obstruction of a right of way would in any event fall under a separate regime.

Conclusion on ground (a) and the DPA

13. Drawing these matters together and taking into account all other matters raised, I find that the appeal development is not compliant with the development plan, read as a whole, and no considerations merit a decision other than in accordance with the development plan.

Overall conclusion

14. 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 as amended.

Formal Decision

15. 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.

V Bond
INSPECTOR

¹ Ref: PLAN/2021/0347 – the appeal made in respect of this refused planning application was turned away by the Planning Inspectorate as being out of time