



Appeal Decision

Site visit made on 30 August 2023

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7TH SEPTEMBER 2023

Appeal Ref: APP/Y3615/C/22/3293073

Land at Roundoak, White Hart Lane, Wood Street Village, Guilford GU3 3EA

- 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 John George Black against an enforcement notice issued by Guildford Borough Council.
 - The enforcement notice, numbered EN/21/00414, was issued on 19 January 2022.
 - The breach of planning control as alleged in the notice is without planning permission the erection of brick piers and gates.
 - The requirements of the notice are i) remove the gates and brick piers shown in the photographs attached to this notice and ii) remove all material resulting from compliance with step i).
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (c) and (g) of the Town and Country Planning Act 1990 as amended (the Act). 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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Decision

1. The appeal is 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.

Reasons

Ground (c) appeal

2. The appeal made on ground (c) is that the matters alleged do not constitute a breach of planning control. The claim made by the appellant is that the breach of planning control is permitted development and hence planning permission is not required. The evidence is that the gates and piers have been erected to facilitate one single means of enclosure. Given the height of the structure, the breach of planning control is not permitted development when considered against the height restrictions as specified in Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
3. For the above reasons, I conclude that planning permission is required for the breach of planning control. Consequently, the ground (c) appeal fails.

Ground (a) appeal and the deemed planning application

4. 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.

5. The evidence is that the unauthorised gates and piers are positioned on land which is allocated as a Gypsy and Traveller site in policy A50 of the 2019 Guildford Borough Local Plan Strategy and Sites 2015-2034 (2019 LP). While surrounding land falls within land designated as Green Belt, the appeal site, and hence the breach of planning control, falls outside the Green Belt as shown on the proposals map of the 2019 LP.
6. 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.

Character and appearance

7. The allocated Gypsy and Traveller site is in use and comprises a rectangular plot of some 0.1 hectares to the south of dwellings fronting White Hart Lane. It lies on the fringe of the built-up area of Wood Street Village.
8. The gates and piers are erected on land fronting White Hart Lane and where there is a noticeable visual transition between the otherwise linear dwellinghouses to the north and the more open and undeveloped character to the south.
9. The evidence is that the appeal site was previously a rear garden associated with the dwelling known as Roundabout. Use of the land as an allocated Gypsy and Traveller site has clearly changed the more open character and appearance of the former garden land. Nonetheless, this part of White Hart Lane continues to be experienced by passers-by as a transitional urban fringe location. As one moves along White Hart Lane, passed the appeal site and to the south, the landscape becomes more open and undeveloped and distinctly rural in character.
10. Owing to the length, massing and height of the gates and piers, I find that they appear as dominant, intrusive and very urban structures in this semi-rural environment. This harm is compounded owing to the provision of lights within the piers which draw uncharacteristic attention to the development at night and in the context of a locality where there is an absence of street and other lighting.
11. For the collective reasons outlined above, I find that the piers and gates are seen as an incongruous and discordant form of development in this part of White Hart Lane. Indeed, the development is seen in marked contrast to the immediate locality which is characterised by either boundary hedges and landscaping, or less imposing and softer forms of boundary enclosure.
12. I therefore conclude that the breach of planning control has caused significant harm to the character and appearance of the area. Consequently, it does not accord with the design, character and appearance requirements of policy D1 and A50(4) of the 2019 LP, policies G1 and G5 of the Guildford Borough Local Plan 2003 and chapter 12 of the National Planning Policy Framework 2021. The local planning authority refer to the Government's Designing Gypsy and Traveller Sites Good Practice Guide 2008 in the reasons for issuing the notice. This is not relevant to the ground (a) appeal as it is no longer extant having been withdrawn in 2015 and replaced with the Government's Planning Policy for Traveller Sites 2015 (PPTS).

Other considerations

13. The gates and piers take up a significant length of the frontage of the site. Indeed, the site is appreciated as being enclosed by a significant amount of hard boundary frontage landscaping when seen from White Hart Lane to such an extent that a lot of the activity and development within the site is not very apparent to onlookers. In this regard, I find that there is conflict with the PPTS which states, at paragraph 26(d), local planning authorities should add weight to *'not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community'*. This is therefore a matter which adds to the harm that I have found in terms of my conclusion on the main issue.
14. The appellant states that gates and piers are needed to ensure that his animals do not run into the road. He also says that without the appeal gates and piers it would mean that the site was not safe for his child who has a specified disability. He says that if the breach of planning control was lower in height, the child may climb over it, and this would be dangerous given the proximity of White Hart Lane.
15. In respect of the above matters, I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to Article 8 of The European Convention on Human Rights as incorporated into The Human Rights Act 1998 which states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial.
16. It is necessary that I balance the needs of the appellant's child with the adverse impact of the unauthorised development on the character and appearance of the area. In this case, the appellant has not justified why there is a need for several pillars, or why the means of enclosure is required to occupy a long length of the frontage of the site. Furthermore, the unauthorised gates are lower in height than the piers. If the gates are at a height which would prohibit the child from climbing over them, then this casts doubt about the appellant's claim that the piers need to be at their unauthorised height to prohibit the child from climbing over them. In any event, it may be possible for the appellant to explore more sensitive options in terms of boundary treatment and/or opt for secure areas for play within the site itself. In turn, this may provide the safety needed for the appellant's child, as well as his animals, while at the same time ensuring that the character and appearance of the locality is not unacceptably compromised.

Planning balance and ground (a) appeal conclusion

17. I have found that the breach of planning control has caused significant harm to the character and appearance of the area. Weighed against this are the personal circumstances of the appellant's child and the family. On balance, I find that a refusal of the deemed planning application, and upholding the enforcement notice, is a proportionate and necessary approach to the legitimate aim of ensuring that the character and appearance of the area is not

significantly harmed. Furthermore, the protection of the public interest cannot be achieved by means that are less interfering of the human rights of the family. Therefore, whilst I acknowledge the identified personal circumstances of the appellant's child and family, I conclude that these are not matters which outweigh the harm that has been caused to the character and appearance of the area.

18. I conclude that the development does not accord with the development plan for the area taken as a whole, or the PPTS, and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, the ground (a) appeal fails.

Ground (g) appeal

19. An appeal on ground (g) makes the claim that the period specified in the notice in accordance with s173(9) of the Act falls short of what should reasonably be allowed.
20. The appellant makes the claim that two months is an insufficient period to comply with the requirements of the notice owing to the Covid-19 Pandemic and as it would render the site unsafe for his child. The Covid-19 Pandemic restrictions were lifted some time ago. The appellant does not provide any objective evidence to indicate, in any event, why two months would not reasonably allow for a contractor to be appointed and compliance with the steps in the notice. I have addressed matters relating to the appellant's child as part of the ground (a) appeal. This is not a matter that is directly relevant to the ground (f) appeal.
21. For the reasons outlined above, I conclude that the ground (g) appeal fails.

Conclusion

22. 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 deemed application.

D Hartley

INSPECTOR