



Appeal Decisions

Site visit made on 5 December 2023

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 January 2024

Appeal A: APP/R3650/C/22/3307315

Appeal B: APP/R3650/C/22/3307316

1 Pine Ridge Drive, Lower Bourne, Farnham, Surrey GU10 3JW

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Sherif Zikri (Appeal A) and Mrs Alexandra Zikri (Appeal B) against an enforcement notice issued by Waverley Borough Council.
 - The enforcement notice was issued on 15 September 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a fence in excess of one metre in height and being adjacent to a highway.
 - The requirements of the notice are: 1) Reduce the height of all parts of the fence to a maximum of one metre from the ground level along the entire length so to comply with the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 2.
 - The period for compliance with the requirements is 3 months.
 - The appeals are proceeding on the grounds set out in section 174(2)(a), (c) and (f) of the Town and Country Planning Act 1990 as amended.
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Summary of Decisions

1. The appeals are allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary Matter

2. There has recently been a revised National Planning Policy Framework (the Framework) published by Government. It however does not raise new issues that are determinative for the purposes of my assessment and therefore injustice to the parties does not arise.

The ground (c) appeals

3. For the appeals to succeed on ground (c) the onus is on the appellants to demonstrate, on the balance of probabilities, that there has not been a breach of planning control. This could be because the matters alleged do not constitute development, planning permission has already been granted for the matters alleged in the enforcement notice or they are permitted development.
4. The appellants assert that a landscaping scheme was submitted pursuant to a planning permission at the site for a replacement dwelling, which has since been constructed.
5. The appellants have not provided a copy of this scheme. However, that provided by the Council, which is not disputed by the appellants, shows a

stretch of 1.8m high close board fencing behind a native species hedgerow, which then fronts onto Longdown Road. During my site visit I could see that both the length of the fence the subject of the notice and its proximity to the highway, differed to the landscaping scheme, in that it was longer and closer. There was also no intervening hedgerow.

6. There is then very little evidence that the fence the subject of the notice is either permitted development or does not constitute development for the purposes of the Section 55 of the Act.
7. As a matter of fact and degree, based upon the evidence before me, the appellants have therefore not discharged the necessary burden of proof to demonstrate that there has not been a breach of planning control.
8. The appeals on ground (c) therefore fail.

The ground (a) appeal

Main Issues

9. The main issues are the effect of the fence on the:
 - character and appearance of the area; and,
 - highway safety.

Reasons

Character and appearance

10. The site relates to a corner plot. The character of the area is reasonably verdant, with detached properties positioned in good sized plots. The fence borders the majority of the site's boundary with Longdown Road.
11. The boundary fence is inevitably visible from the public realm. The Council acknowledges that a fence of the same design and materials could be erected to a height of 1m without planning permission. Indeed, the notice actually requires that the fence only be reduced to this height, as opposed removed, in recognition of this.
12. Whilst the majority of boundary treatments in the immediate area comprise hedgerows, there are also a large number of front boundary fences. I am then not persuaded the additional height of the fence is inappropriate in terms of scale and appearance. Given the otherwise verdant character of the area, the fence is not visually stark and so maintains the areas informal rural character. In itself, it is a high-quality fence that specifically relates to the dwelling and so is not overtly urban. It therefore does not sit incongruously within the street-scene.
13. The fence therefore does not materially detract from the visual appearance and character of the area nor the street-scene.
14. I conclude the fence is not harmful to the character and appearance of the area and therefore accords with Policies D1 and D4 of the Waverley Borough Council Local Plan 2002, Policy TD1 of the Waverley Borough Local Plan Part 1 2018 (the 2018 LP) and Policies FNP1 and FNP8 of the Farnham Neighbourhood Plan 2020. These policies, amongst other things, require development to not harm the visual character of the area, be appropriate to the site in terms of scale and

appearance, protect the character of the Borough, be designed to a high quality, and, maintain informal rural character. For the same reasons it accords with the achieving well-designed and beautiful places objectives of the Framework and the Farnham Design Statement 2010. Whilst the Council has also raised Policy SP1 of the 2018 LP, this is concerned with sustainable development, and thus I find no conflict either.

Highway safety

15. The photographic evidence before me is that there was a hedgerow or significant foliage in the location where the fence is now situated. Whilst the fence is a solid structure, and does not provide scope to improve sightlines, the hedge/foliage could only have been reduced where it encroached onto highways land.
16. I am consequently not persuaded that there would be any material difference in the sightlines that could be achieved with the junction at Pine Ridge Drive. During my site visit, I could see there was adequate visibility at this junction, given the narrow layout of the highway in this location and likely slower vehicle speeds. Accordingly, the fence does not harmfully increase the risk of conflict between vehicles and other road users.
17. There would therefore not be an unacceptable impact on highway safety as the fence does not cause a materially greater obstruction to visibility.
18. I conclude the fence is not harmful to highway safety and therefore accords with the highway objectives of the Framework. Whilst the Council has also raised Policy ST1 of the 2018 LP, this is concerned with sustainable transport as opposed explicit highway safety and thus I find no conflict either.

Conclusion

19. For the reasons given above I conclude that the appeal on ground (a) should succeed. As the development relates to a fence which is substantially complete, no planning conditions are relevant or necessary.

Overall Conclusion

20. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeals on ground (f) do not therefore need to be considered.

Formal Decisions

Appeals A and B

21. The appeals are allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a fence in excess of one metre in height and being adjacent to a highway on land at 1 Pine Ridge Drive, Lower Bourne, Farnham, Surrey GU10 3JW referred to in the notice.

Paul T Hocking

INSPECTOR