



Appeal Decisions

Site visit made on 8 May 2024

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 June 2024

Appeal A Ref: APP/D3830/C/23/3321492

Appeal B Ref: APP/D3830/C/23/3321493

Land at The Garden House, Broadhurst Manor, Broadhurst Manor Road, Horsted Keynes, Hayward Heath, West Sussex RH17 7BG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). Appeal A is made by Mr Paul Templeman and Appeal B is made by Mrs Inessa Templeman against an enforcement notice issued by Mid Sussex District Council.
 - The notice was issued on 4 April 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a fence as indicated in the approximate position marked in blue between the points marked A and B on the plan attached to this Notice.
 - The requirements of the notice are to:
 - i) Remove from the Land the fence and fence posts as indicated in the approximate position marked in blue between the points marked 'A' and 'B' on the plan attached to this Notice.
 - ii) Remove from the Land all materials and debris arising from compliance with requirement i) above.
 - The period for compliance with the requirements is: 28 days.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a) and (c) and Appeal B is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 (as amended). 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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Preliminary Matters

1. During the course of the appeals, Areas of Outstanding Natural Beauty (AONB) were re-named National Landscapes. The National Planning Policy Framework (the Framework) has also been re-issued. Changes to the Framework do not relate to the matters subject of this appeal. I will refer to the National Landscape and will take the latest version of the Framework into account in coming to my decision.
2. The Horsted Keynes Neighbourhood Plan (NP) was made prior to the Council submitting its statement. A copy of the NP has been shared with the appellant, who had the opportunity to comment. I will take it into account in coming to my decision.
3. In determining the appeal under ground (a) involving listed buildings I have had special regard to the desirability of preserving the buildings or their settings or any features of special architectural or historic interest which they possess in accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The Appeals on Ground (c)

4. An appeal on this ground is that “those matters” (the matters stated in the alleged breach of planning control) do not constitute a breach of planning control. The burden of proof for this ground is on the appellant, with the relevant test of the evidence being on the balance of probability.
5. There is no dispute that the fence constitutes development within the meaning of Section 55 of the Act for which planning permission is required. No planning permission has been sought from or granted by the Council for the fence.
6. The appellant suggests that the fence would comprise permitted development granted planning permission by virtue of Article 3 and Class A, Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). That enables the construction of fences up to 2m above ground level provided that they are not adjacent to a highway used by vehicular traffic.
7. The fence at The Garden House is located to the side of the rear garden of the property, alongside a bridleway. It is separated from the bridleway by a steep bank and narrow stream. The bridleway is a paved track that I understand provides vehicular access to properties and fishing lakes.
8. There is no definition of what “adjacent to a highway” means in the GPDO. As such, it needs to be defined as a matter of fact and degree according to the circumstances of the case.
9. In this case, the fence is close to the edge of the bridleway and at a higher level. As a result, it dominates the bridleway at this point. The degree of separation is limited, such that it is adjacent to the bridleway.
10. I note that the bridleway is in the ownership of the appellant and is maintained by them. However, this does not affect whether it is a highway in terms of the GPDO.
11. Taking account of the above factors, and having regard to all other evidence before me, I conclude that, on the balance of probability, this fence is not permitted development as defined by the GPDO.
12. Since no planning permission has been granted for the development it thereby constitutes a breach of planning control.
13. For these reasons, I conclude that the appeal under ground (c) should fail.

The Appeal on Ground (a) and the Deemed Planning Application

Main issues

14. The Council refer to designated and non-designated heritage assets within the reasons for issuing the notice. They suggest there are impacts on the setting of the Grade II* listed building of Broadhurst Manor and the Grade II listed buildings comprising a barn and cartshed/granary, in whose curtilage they have identified three other buildings they suggest are curtilage listed. In addition, they identify Broadhurst Stables and the semi-detached cottages at Broadhurst Cottage and Pond Cottage as non-designated heritage assets.
15. Taking that into account, the main issues are:

- the effect of the fence on the landscape and scenic beauty of the High Weald National Landscape; and
- The effect of the fence on the setting of nearby heritage assets.

Reasons

National Landscape

16. The High Weald National Landscape appears to be heavily wooded, but actually comprises a mosaic of fields interspersed with small woodlands with routeways, including bridleways, through. The High Weald AONB Management Plan refers to it as representing a quintessentially English landscape. The Framework states that National Landscapes have the highest status of protection in relation to landscape and scenic beauty.
17. The bridleway past The Garden House follows the route of the access road past Broadhurst Manor and on to further properties and fishing lakes to Horsted Keynes. For most of its length, it runs through woodland with lakes and fields to either side. As a result, the rural surrounds of the bridleway is typical of the appearance of the High Weald National Landscape.
18. The fence is close boarded, such that it restricts views into and through the furthest part of the garden from The Garden House. A short section closest to the house is low, but it rises up for the remaining length and turns around the end of the garden, although that part is not subject of the enforcement notice or this appeal. The garden closer to the house is separated from the bridleway by a low hedge. There may have also been a hedge in the location of the fence at some point in the past. Viewed from the bridleway, the fence is on the top of a steep bank, with a narrow gully separating the metalled bridleway and bank. As a result, it is prominent and dominates this section of the bridleway.
19. The depth and steepness of the bank from the bridleway mean that if a hedge were planted outside the fence, it would be unlikely to establish itself to restrict views of the fence from the bridleway. The fence has begun to weather and that will, along with existing and additional planting of ivy or similar plants, soften the appearance of the fence over time. Nevertheless, it is likely to always be prominent in views from the bridleway.
20. Close boarded fences are more commonly associated with urban and suburban landscapes. In this rural setting, it appears somewhat incongruous.
21. For these reasons, I conclude that the fence harms the landscape and scenic beauty of this part of the High Weald National Landscape. As such, it is contrary to Policies DP12, DP16 and DP26 of the Mid Sussex District Plan 2014-2031 (DP), Policies HK1, HK4 and HK9 of the NP and the Framework that seek good quality design that protects the landscape and scenic beauty of the National Landscape and that development should be sensitive to the countryside and conserve or enhance natural beauty. In particular, Policy HK9 of the NP states that development should relate well to historic routeways and not damage their rural character.

Heritage Assets

22. Broadhurst Manor comprises the remaining part of a late 16th century mansion, much of which was demolished in the late 18th century but restored and

enlarged in 1934. The roof is mainly hung with Horsham stone slabs, with the main front timber framed with plaster infill. The original part of the building is to the south, with a matching wing of similar style to the north connected by the main front. The list description refers, internally, to there being fireplaces, panelling and framing as well as a fine 16th century oak main staircase. I understand the former farmstead has been recorded as a historic farmstead of the medieval period in the West Sussex Historic Farmsteads and Landscape Character assessment. Its significance derives from its fine interior and exterior, and its relationship to the surrounding farmstead.

23. The barn and cartshed/granary are located close to Broadhurst Manor and make up, along with a number of other buildings, the farmstead. The barn was probably built for industrial manufacture, but later converted into a barn. It is timber framed with red brick infill on a brick plinth and thatched roof. It has central wooden cart doors and weatherboarding above. Its significance is derived from its history as an industrial building later used for agriculture within this group of buildings.
24. The cartshed was constructed in the late 16th century with a granary above. In the 20th century it was altered, including provision of an external staircase, double doors and a rear extension. The ground floor is brick with a timber framed and plastered infill to the first floor. It also has a thatched roof, hipped and half-hipped to either end. This historic appearance and links to the surrounding group provides its significance.
25. The other buildings within the curtilage of Broadhurst Manor, the barn and cartshed/granary are located to the side of the former farmyard, to the south west of the house forecourt, possibly abutting the garden walls and to the south of the forecourt forming two sides of another yard with the second outbuilding. The significance of these buildings is derived from their historic appearance and contribution to the group, with the listed buildings, described by the Council as outstanding examples of rural Sussex buildings of their type and period.
26. Pond Cottage and Broadhurst Cottage are a pair of semi-detached houses dating from the mid-late 19th century. They may have been one dwelling, but were extended and sub-divided in the 20th century, possibly linked to modernisation of the estate when Broadhurst Manor was extended in the 1930's. Despite those changes, they retain character and it is that, along with their links to the group of listed buildings, that give their significance as non-designated heritage assets.
27. Broadhurst Stables comprise a former stables building dating from the late 19th or early 20th centuries. It provides a positive contribution to the setting of the listed group. Its significance derives from its historic use and appearance that contributes to the setting of the listed group.
28. The rural setting of these heritage assets is important in terms of their value and how they are experienced. The group of heritage assets contribute toward the cultural heritage of the National Landscape. The listed buildings are divided from The Garden House and its garden by the metalled bridleway and a stone wall. The bridleway provides access to the non-designated heritage assets and a historic link between the group of listed buildings on the route to Horsted Keynes. The heritage assets can't be experienced in shared views with the

fence. It will weather over time and planting, such as ivy, may obscure the fence to some extent.

29. Nevertheless, the fence does introduce an urban or semi-urban modern structure within the setting and on the rural approach to the farmstead within the National Landscape. It is visible along the bridleway within the setting of these heritage assets.
30. As a result, the fence harms the setting of the farmstead at Broadhurst Manor and the designated and non-designated heritage assets that it comprises. Whilst there is a neutral effect on the individual heritage assets, that results in harm to the significance of the heritage assets as a group, albeit less than substantial. In accordance with the Framework, the harm to the group of heritage assets is nevertheless a matter of considerable importance and weight in this case.
31. Paragraph 208 of the Framework establishes that, where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The appellant suggest the benefits of the fence relate to protecting the privacy of their garden, which is a private benefit, and in blocking access to the garden and fields beyond by dogs and sheep being herded along the bridleway. I accept that blocking this route to the fields is a public benefit, particularly as I understand sheep graze in the fields and could be harmed by dogs also accessing the fields. However, I note that the field borders the bridleway, with a more open fence further along the bridleway. In any event, it is unclear whether more common rural forms of stock proof fencing have been considered as an alternative. As a result, that benefit is minimal and does not outweigh the identified harm to the heritage assets in this instance.
32. For these reasons, the fence conflicts with Policy DP34 of the DP, Policies HK1, HK4 and HK6 of the NP and the Framework that seek good quality design that preserves or enhances the special architectural or historic interest of listed buildings and their settings, as well as conserving other heritage assets in a manner appropriate to their significance.

Other Matters

33. My attention has been drawn to photographs of a number of other fences that I understand are in the surrounding area. It is unclear where these fences are located and most appear to be located adjacent to wider roads rather than a narrow bridleway. It is unclear whether they are in such rural locations, National Landscapes or the setting of listed buildings. In any event, I need to consider the appeal on its individual merits.
34. The fence blocks access between the bridleway and the fence to the opposite side of the garden. I understand that dogs have, in the past, gained access to the field via this route. As the field often contains sheep, this could result in dogs causing harm to the sheep. The fence also restricts access to the garden by sheep being herded along the bridleway and restricts views such that it protects the privacy of the appellant in the end section of the garden. These are material benefits of the fence but are not sufficient to outweigh the conflict with development plan policies that I have found.

Conclusion

35. For the reasons set out above, I conclude that on balance the development does not accord with the development plan. The appeal on ground (a) therefore fails.

Formal Decision

36. The appeals are 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.

AJ Steen

INSPECTOR