



Appeal Decision

Site visit made on 29 April 2025

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 May 2025

Appeal Ref: APP/B3030/C/24/3348614

46 Robin Hood Road, Blidworth NG21 0ST

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act").
 - The appeal is made by Mr Howard Vincent against an enforcement notice ("EN") issued by Newark & Sherwood District Council.
 - The notice was issued on 24 June 2024.
 - The breach of planning control as alleged in the notice is "Without planning permission, 'operational development' consisting of the erection of a single storey car port extension and timber fence/means of enclosure adjacent to the highway forward of the principal elevation (as shown within photograph 1 and photograph 2 and identified with an 'X' on the Plan A)".
 - The requirements of the notice are to:
 - A. Demolish the single storey car port extension that is located forward of the principal elevation, (as shown within photograph 1 and photograph 2 and identified with an 'X' on the Plan A), and remove from the land all resultant waste and materials.
 - B. Reduce the height of the fence forward of the principal elevation on the West elevation of the property to no more than 1m in height to a point at least 2m from the edge of the highway (as shown with a RED LINE within photograph 1 and photograph 2 and identified with a RED LINE on Plan A).
 - The periods for compliance with the requirements are:
 - A. 90 days after this notice takes effect.
 - B. 90 days after this notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the 1990 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. It is directed that the EN is varied by:
 - *the deletion of the words "B. Reduce the height of the fence forward of the principal elevation...." and their substitution with the words "B. Reduce the height of the timber fence/means of enclosure forward of the principal elevation..." in Section 5. WHAT ARE YOU REQUIRED TO DO.*
2. Subject to the variation, the appeal is dismissed, the EN 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.

Matters Concerning the Notice

3. The alleged breach of planning control is described as a "*timber fence/means of enclosure*". However, it is described as a "*fence*" within the requirements of the EN. It is therefore necessary for me to vary the requirements described within the EN so they are consistent with the wording of the alleged breach. I am satisfied that the EN can be varied in this respect without causing injustice.

Preliminary Matters

4. The appeal was made on ground (a). However, within the appellant's submission they state, *"I do not believe the simple cover/car shelter...need be deemed a 'development' that requires planning permission"*. Consequently, I asked the appellant to confirm whether there was a "hidden" ground (c) appeal (*"the matters stated in the EN do not constitute a breach of planning control"*). However, no response was received from the appellant within the specified period. I have therefore determined the appeal as made.
5. Even if the appellant had advanced an appeal under ground (c), the car port is attached to the front elevation of the dwelling and some of the posts are concreted into the ground. Furthermore, it is likely that the materials were brought onto the land and then erected. Consequently, I would have likely determined that the car port is a building and constitutes operational development under the first limb of s55(1) of the 1990 Act.
6. The car port is sited forward of the principal elevation of the original dwellinghouse, and it would not therefore have fallen within permitted development parameters for an extension. As such, it is unlikely that I would have found that the car port did not constitute a breach of planning control.
7. A revised National Planning Policy Framework (*"the Framework"*) has been published since the EN was issued. However, it does not raise any new issues that are determinative to the purposes of the appeal and therefore injustice to the parties does not arise. I have referenced the revised paragraph numbers where relevant.
8. The Council, in their Appeal Statement, included harm to the living conditions of the occupiers of a neighbouring property and harm to a non-designated heritage asset (*"NDHA"*) as additional reasons for issuing the EN. Notwithstanding this, the appellant has had the opportunity to comment upon the Council's Appeal Statement and therefore has not been prejudiced by the inclusion of these additional reasons. I have therefore determined the appeal on this basis.

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

9. An appeal under ground (a) is that planning permission should be granted for the matter alleged.
10. The **main issues** are the effect of the development on:
 - a) the character and appearance of the surrounding area, including the NDHA; and
 - b) the living conditions of the occupiers of the neighbouring property, 44 Robin Hood Road, with reference to outlook and sunlight.

Reasons

Character and Appearance, including NDHA

11. The car port occupies the full width and depth of the host dwelling's front garden. It comprises a stained black wooden/metal frame with a corrugated clear plastic roof. It is attached to the ground by posts concreted into the ground and to the dwelling's

front wall. Along the front garden's western boundary is a close boarded fence with a trellis-type top which abuts the back edge of the pavement.

12. The dwellings along Robin Hood Road are set back from the road behind a front garden. Where front boundary treatments are in-situ, they typically comprise low walls constructed of stone or brick. Boundary treatments that subdivide the front gardens from one another typically comprise fences and walls that are lower in height than the fence erected at the appeal site or comprise hedgerows. There is an absence of built structures within the front gardens of the dwellings. Consequently, the road has an open character and appearance.
13. The car port is incongruous to both the host dwelling and the street scene due to its siting forward of the dwelling's principal elevation, its design, materials and colour. The height and siting of the fence is incongruous to the street scene. Furthermore, the height, scale and prominence of the car port and fence erode the open character of the road.
14. The village of Blidworth is designated as a NDHA within the Nottinghamshire Historic Environment Record ("HER"). Blidworth is a colliery village that was laid out and built by the Industrial Housing Association for the colliery company on the Garden City principles common at that time. The village's layout is a relaxed grid pattern with set-backs or green bays to break up the building line. The significance of the NDHA therefore derives from its historic and aesthetic values.
15. The development erodes the established set-back of the building line and therefore, directly affects one of the village's design principles. Consequently, the development affects the significance of the NDHA.
16. In respect of the balancing exercise at paragraph 216 of the Framework, the appellant asserts that the development is required due to previous damage and attempted thefts. However, I am unclear from the evidence before me how an open sided car port and trellis topped fence prevents such behaviour from occurring. As such, I afford this limited weight. Consequently, the benefits associated with the development are insufficient to outweigh the identified harm.
17. The appellant has provided numerous photographs of car ports, extensions and fences within the surrounding area that they assert are similar to the development. Other than street names, I have not been provided with the address of each example. However, none of the examples are on Robin Hood Road. Furthermore, I have not been provided with the planning history of these examples and therefore it is unclear whether planning permission was granted or even required. Consequently, I am unable to determine whether these examples are directly comparable to the appeal development. In any event, I must determine each case on its own merits.
18. For these reasons, the development has a harmful effect on the character and appearance of the surrounding area, including the NDHA. It conflicts with Core Policies 9 and 14, and Policies DM5 and DM6 of the Allocations & Development Management Development Plan Document, adopted 2013 ("A&DM") which, amongst other things, seek to ensure that new development reflects the form, design and materials of the district's built form; respect the character of the surrounding area; and conserve and enhance NDHAs as identified on the HER.

Living Conditions

19. The neighbouring property, 44 Robin Hood Road is attached to the west of the host dwelling. No 44 has a ground floor window adjacent to the development that the Council assert serves the “*main living space*”. From the evidence before me and what I witnessed during my site visit I have no reason to disagree with the Council’s assertion.
20. The development extends the full depth of the host dwelling’s front garden and is in proximity of No 44’s main living space window, which faces north/northwest. Consequently, the development has a limited overshadowing effect on No 44’s nearest ground floor window. However, the height, depth and proximity of the development to this window creates an enclosed and overbearing effect that harms the living conditions of the occupiers of No 44.
21. For these reasons, the development does not harm the living conditions of the occupiers of No 44 with reference to sunlight but does cause harm with reference to outlook. It therefore conflicts with Policies DM5 and DM6 of the A&DM which, amongst other things, seek to ensure that development does not impact on the amenities of neighbouring users including from an overbearing impact.

Conclusion

22. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the EN with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

A Berry

INSPECTOR