



Appeal Decision

Site visit made on 20 April 2026

by **Robin Buchanan BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date 19 May 2026

Appeal Ref: APP/V3120/C/24/3346220

5 Picklers Hill, Abingdon OX14 2BA

- The appeal is made under section 174 of the Town and Country Planning Act 1990, as amended (the Act).
- The appeal is made by Mr W S H Youdale against an enforcement notice issued by Vale of White Horse District Council.
- The notice was issued on 9 May 2024.
- The breach of planning control as alleged in the notice is *'without planning permission (i) the material change of use of land of privately owned amenity space to residential use, for the purpose of extending the garden of 5 Picklers Hill, and (ii) the erection of a fence, vegetable planters and planting to facilitate the material change of use, shown in blue on the annexed Plan 2'*.
- The requirements of the notice are to:
 - (i) Cease the use of the Land as an extended private residential garden and restore its open character.
 - (ii) Remove in its entirety the fence and planting shown in the locations marked by the blue lines on Plan 2, from the Land.
 - (iii) Remove all items and materials from the area of the Land outlined and hatched in black on The Plan, including but not limited to plant pots, raised bed enclosure, recycling/waste containers, timber, sand and/or gravel.
 - (iv) Following compliance with requirements (i), (ii) (iii) and (iv) prepare the area of the Land outlined and hatched in black on The Plan to its previous condition by making good the Land with turf, adjusting levels to ensure that it is laid level with the surface of the adjacent highway and surrounding land.
- The period for compliance with the requirements is: Six (6) months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of 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.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld; planning permission is also refused.

Ground (a)

1. Ground (a) is that planning permission ought to be granted for the breach of planning control set out in the notice. In essence, this primarily concerns a material change of use to residential garden land.

Main Issue

2. The main issue is the effect of this residential garden land on the character and appearance of the area.

Reasons

3. Picklers Hill is a long, meandering cul-de-sac lined either side by detached houses. Formal private front gardens face the road, enclosed mainly by low walls, fences, hedgerow or other planting and, in places, some taller hedgerow or trees. The

relatively shallow depth of these front gardens follow the road in broadly contiguous alignment. Informal grass verges, beyond the front gardens, run along either side of the road, which is without pavements, crossed by driveways. They vary from narrow strips to significantly deeper margins, such as at No.5 and either side because these houses and front gardens are set further back on the inside of a sweeping bend in the road.

4. This demarcation between front garden and grass verge is still largely in keeping with how this residential development was originally laid out, so this street scene is locally distinctive. The extent of formal private front garden and, especially, informal grass verge at No.5 therefore made an important positive contribution to the character and appearance of this area.
5. At No.5, a low post and rail fence and some planting that had separated the front garden from the grass verge was removed. Virtually all of the grass verge (which is also wide so large in area) has been incorporated as an extended front garden and included a small shed, plant pots, raised planting beds and a table. On one side, a long, moderately tall close boarded fence was erected across the grass verge, perpendicular to the road. A low hedge planted across the frontage leaves a narrow sliver of grass verge next to the road. These means of enclosure facilitate use of the informal grass verge as part of the formal private front garden of No.5 and give this residential garden land a distinctly different visual and spatial presence.
6. This discordant, mainly enclosed formal private front garden juts out significantly forwards, manifestly out of kilter with the prevailing extent, pattern and layout of front gardens in Picklers Hill. It also abruptly interrupts the linear continuity and extent of informal grass verge. This residential garden land significantly undermines the cohesiveness of residential development in this road and is prominent and conspicuous as such in public view.
7. The domestic paraphernalia has been removed, as have vertical feather edge boards. However, this leaves a fence comprising gravel boards with posts and arris rails in the same incongruous position and height with the hedgerow in situ along the frontage, so the verge is still partitioned. Planting has been reinstated or since grown back/up along the original front garden and grass verge dividing boundary, some in pots or planters. But the grass verge is open and accessible from the original front garden via the drive next to it. Despite these changes, there is little to counter that the material change of use of the grass verge as residential garden land subsists and sustains similar objections to this primary, not ancillary use of it.
8. Individual sections of the informal grass verge are owned and maintained as such by the respective owners of each house. But there is little evidence that when this cul-de-sac was established the verges were intended as part of the formal private front gardens. Nor to be enclosed by fencing or landscaping despite biodiversity or drainage benefits and that planting within the original front gardens, including along boundaries with the grass verge, is otherwise in keeping in Picklers Hill. While there is little evidence that the Council has formally designated or allocated the verge at No.5, or any verge in this road, as a type of public open space, it nonetheless forms part of the public realm and is important for the reasons outlined earlier.
9. At No.2 Picklers Hill, a plan approved by the Council may show a proposed front garden to the edge of the road with some landscaping, apparently incorporating

part of the informal grass verge as residential garden land¹. However, the planning permission was for extension and alteration of this house, not material change of use from grass verge to residential garden land. Condition 2 also contains the proviso 'except as controlled or modified by conditions of this permission'. This means that despite what the approved plan purports to show, suitable and appropriate landscape details need to be approved by the Council under condition 4; including with regard to the agreed or lawful extent of residential garden land.

10. Considering the grass verge either side of No.4 Picklers Hill, and despite it seems a widened drive, a new fence with planting still demarcates the original boundary between formal private front garden and the remaining open, unenclosed informal grass verge. As a result, it is not visually or physically incorporated as residential garden land. Even if the in/out driveway at No.6 Picklers Hill is not as originally laid out (and some grass verge has also been lost here), that which remains is still contiguous with similar grass verge at the adjoining properties and anyway demonstrably shallower than at No.5. In the absence of objective evidence to the contrary, the low wall with taller planting behind at No.20 Picklers Hill appears to be along the original boundary between formal private front garden and shallow open, unenclosed informal grass verge.
11. As I also saw, some formal private front garden boundary features at some other houses in Picklers Hill no longer exist or are significantly diminished. These parts of these properties merge visually or physically into sections of informal grass verge. If there has been a material change of use, these incursions might be lawful by passage of time. There is otherwise little evidence that planning permission has been granted or it is authorised by a lawful development certificate, including at No.5. These verges were anyway evidently significantly shallower than at No.5, so any extended front gardens at these other properties are smaller adjuncts, largely still open and unenclosed or to all intents and purposes still part of the verge, albeit less distinctly so including in the way maintained.
12. The effect of these changes at these other properties is therefore notably more limited or not directly comparable to the nature of change at No.5. Nor are those circumstances representative of the prevailing layout and arrangement of formal private front gardens and informal grass verge at the majority of residential properties in Picklers Hill. These have the most appreciable influence on character and appearance of this area and in principle are worthy of maintaining as such.
13. For the purpose of this appeal, Article 3(5)(b) disapplies planning permission for development granted by Article 3(1) and Schedule 2 if, as in this case, it is in connection with an unlawful use². The height of the existing fence, and if it is 1m above ground level next to the road or along its entire length, is anyway not agreed. There is little evidence that a 1m high fence in a similar straight line in the verge would be a means of enclosure under Part 2, Class A. Nor has it been demonstrated (such as with a design or plan) that a new fence would be more or less desirable or essentially give the same outcome as the existing fence, which might be relevant to a justification for granting it planning permission. On this basis, there is no apparent permitted development fallback to retain the existing fence or, therefore, erect a new fence in the same position after the requirements of the

¹ P25/V2127/HH

² The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended

notice, if it were upheld, had been complied with. A formal determination in these regards would need to be by an application for a lawful development certificate.

14. In an appeal decision put to me³, the additional garden area sought was just under a metre on a flank boundary and just over two metres at the rear of a house. The position or extent of grass verge lost in that case and its effect on the character or appearance of that area is therefore not comparable to No.5.
15. In light of all the above, the material change of use to residential garden land causes significant harm to the character and appearance of the area. This development is therefore contrary to Policy CP37 of the Vale of White Horse Local Plan Part 1, 2016 and Policy DP33 of the Vale of White Horse Local Plan Part 2, 2019. These include that development of open space which provides visual amenity should be for an ancillary purpose and strengthen this function, reinforce local identity and create a distinctive sense of place through high quality townscape and landscaping that physically and visually integrates with its surroundings.

Other Matters

16. Members of the public are able to access the grass verges, such as to walk beside the road, take refuge from passing vehicles, exercise dogs or drive over. There has also been some specific instances of antisocial behaviour on the verge in front of No.5. But there is little to counter that with intact boundary features for the original formal private front garden, normal domestic use and activity at No.5 would not be unduly or routinely disturbed. The appellant also has recourse to the Police or other regulatory powers, such as statutory nuisance.
17. Whether any covenant restricts use of the verges, including at No.5, is a private matter between the parties concerned. It is for the Council to decide if it is expedient to take enforcement action at No.7 Picklers Hill for a similar alleged breach of planning control. Because there are fundamental in principle objections to the residential garden land, conditions could not make it acceptable, including those suggested or commented on by the main parties,.

Planning balance and conclusion

18. There are no other considerations to indicate that ground (a) should be determined otherwise than in accordance with the development plan taken as a whole⁴. Consequently, for the reasons given above, the material change of use of land of privately owned amenity space to residential use, for the purposes of extending the garden of 5 Picklers Hill is unacceptable and planning permission should not be granted for it. Accordingly, ground (a) fails.

Ground (f)

19. For ground (f) to succeed, the appellant must demonstrate that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy the breach of planning control.
20. I acknowledge that planning enforcement should be remedial, not punitive. I also appreciate that what the appellant has already removed from the grass verge and seeks to retain would be at less cost and disruption than fully complying with the

³ APP/X0360/W/16/3163813

⁴ Section 38(6) – Planning and Compulsory Purchase Act 2004, as amended

requirements of the notice. However, while the reasons for issuing the enforcement notice refer to some amenity considerations, these set out why the Council considered it was expedient to take enforcement action. With the requirements, it is clear that the purpose of the notice is to remedy the breach of planning control under section 171A(1) of the Act, i.e. the material change of use.

21. Sections 173(3) and (4)(a) of the Act then provide that the steps required to be taken include discontinuing any use of the land or by restoring it to its condition before the breach took place. Relevant caselaw has established that a notice (about a material change of use and works, including operational development, carried out to facilitate the material change of use) may require any ancillary or incidental works be removed in order that the land is restored to its previous condition and the breach remedied. This extends to works which might otherwise be lawful, permitted development or not development if, as in this appeal, they facilitate the material change of use.
22. The requirements in the notice are integral to achieving this outcome and the Council does not seek to under-enforce. No other lesser steps were suggested. I am, therefore, satisfied that the steps required by the enforcement notice to be taken are consistent with remedying the breach of planning control, so are proportionate and not excessive. For these reasons ground (f) fails.

Overall Conclusion

23. Ground (a) and ground (f) both fail, so the appeal does not succeed.

Formal Decision

24. The appeal is dismissed and the enforcement notice is upheld. Planning permission is also refused on the application deemed to have been made under section 177(5) of the Act.

Robin Buchanan

INSPECTOR