



Appeal Decisions

Site visit made on 10 October 2023

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 November 2023

Appeal A: APP/A1720/C/22/3311466

Land at 106 Funtley Road, Fareham, Hampshire PO17 5EF

- 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 Paul MacDonald against an enforcement notice issued by Fareham Borough Council.
 - The enforcement notice was issued on 17 October 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a detached timber garage.
 - The requirements of the notice are: (a) Demolish the detached timber garage; and (b) Remove all resulting materials from the Land.
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/A1720/D/22/3307877

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The application Ref P22/1046/FP, dated 19 July 2022, was refused by notice dated 21 September 2022.
 - The development proposed is a timber garage for use as ancillary storage for the existing dwelling.
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Summary of Decisions

1. The appeals are dismissed and the enforcement notice is upheld.

Appeals A and B – the deemed planning application and refusal of planning permission

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area.

Reasons

3. The appeal property is a detached dwelling on the northern side of Funtley Road, which is predominantly residential in nature. The dwelling is separated from the road by an area of hardstanding which acts as a driveway to the property. The driveway is enclosed by a boundary wall and gate to the front, a tall hedgerow to its western side, and a further wall along its boundary with the neighbouring property to the east.

4. The development before me relates to the retention of a garage building located to the front of the property with a dual-pitched roof, as built (Appeal A), or alternatively with a mono-pitched roof (Appeal B).
5. There have been two previous appeal decisions¹ that have dismissed the retention of the garage building, albeit with differing roof configurations. Those Inspectors however concluded, amongst other things, that the building appeared excessively large, dominant and cramped, which was harmful to the open character of the street-scene.
6. Even though other examples of buildings or developments have now been brought to my attention, none appear directly comparable to the development before me. Even if I am wrong, other examples of harmful developments do not justify the grant of planning permission, as new buildings need to respond to the positive elements of local character, which in this case is the open character of the street-scene.
7. I recognise that the building is situated behind a front boundary wall and is obscured in one direction by a neighbouring hedge, although in the case of the latter no control can be exercised to retain it. This was however the case when the development was previously considered at appeal. I am also not persuaded that planning conditions relating to landscaping measures would in any tangible way ameliorate the presence of the building within the street-scene. I therefore have little reason or evidence before me, including from during my own site visit, to conclude differently to those other Inspectors.
8. Whilst the mono-pitched version of the garage would reduce the height of the building, it would then result in an even more conspicuous and makeshift building owing to that roof design, given its location at the front of the property.
9. I recognise that the building provides for secure storage in connection with a hobby and that the appellant is seeking alternative solutions, however this does not provide overriding justification, and so a temporary planning permission would do nothing other than perpetuate the harm. Neither am I persuaded that further time will adequately soften the appearance of the building. The supposed absence of complaints from neighbours about the building then does not outweigh the harm that has been identified.
10. I conclude the development is harmful to the character and appearance of the area in contravention of Policy D1 of the Fareham Local Plan 2037, adopted April 2023. This policy, amongst other things, requires development to appropriately respond to the positive elements of local character. This policy supersedes that cited in the Council's notice and decision. For the same reasons, the development contravenes the Fareham Borough Design Guidance Supplementary Planning Document, 2015 and the achieving well-designed places objectives of the National Planning Policy Framework.

Conclusion

11. For the reasons given above I conclude that the appeals on ground (a) and against the refusal of planning permission should fail.

¹ APP/A1720/D/21/3276769 and APP/A1720/D/22/3291424

Appeal A – the ground (f) appeal

12. The purpose of the enforcement notice is clearly to remedy the breach of planning control and it does not seek to under-enforce. Therefore, for an appeal on ground (f) to succeed it would be necessary for the appellant to explain why the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control and propose lesser alternatives steps.
13. I have already considered the planning merits of retaining the building, including with a mono-pitched roof, and subject to planning conditions to secure additional landscaping treatments. This has failed as above. The appellant then provides very little evidence as to why the steps required by the notice exceed what is necessary to remedy the breach of planning control.
14. The appeal on ground (f) therefore fails.

Appeal A – the ground (g) appeal

15. The appellant contends that the time given to comply with the requirements of the enforcement notice are too short and that 6 months is required. There is also suggestion of a 3-year compliance period.
16. The requirements of the notice are however straightforward. Whilst the appellant may require time to find alternative storage solutions, and/or potentially relocate the building, I am not persuaded that 2 months is then too short in which to do so and then comply with the notice. A longer period would therefore unnecessarily perpetuate the breach of planning control. I also note that the Council has powers under section 173A(1)(b) of the Act to extend the compliance period, albeit that would be a subsequent matter and is entirely for them.
17. The appeal on ground (g) therefore fails.

Conclusion

18. For the reasons given above I conclude that Appeals A and B should not succeed. I shall uphold the enforcement notice and refuse to grant a planning permission.

Formal Decisions

Appeal A

19. 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.

Appeal B

20. The appeal is dismissed.

Paul T Hocking

INSPECTOR