

SECTION 174 (ENFORCEMENT NOTICE) APPEAL REFERENCE: APP/L1765/C/18/3195411
Land known as Texas, Texas Drive, Olivers Battery, Winchester, SO22 4HT

1. As a local resident living close to the open countryside traversed by Texas Drive and having regularly walked the public footpaths and bridleways that criss-cross the area for the past 25 years, I fully support the LPA (Winchester City Council) in issuing the Enforcement Notice for the reasons given in the Notice. Namely, that the breach of planning control took place within the last four years and that planning permission for construction of a dwelling and alterations to site levels was refused in December 2017 due to the numerous policy breaches detailed in the Notice.
2. What may not be clear to the Inspector is that the Planning Application that was refused in December 2017 was a retrospective application by the appellant, intended to regularise a whole raft of contraventions of an extant permission, granted in October 2016. That extant permission was passed by the planning committee by only the narrowest of margins after two previous applications in 2013 and 2014 had been refused, the latter having gone to appeal. The extant permission (Ref: 16/00320/FUL) contained a total of nine Conditions, as it was acknowledged by the planning committee that it would result in a level of harm to the character of the area, which they wished to minimise, as the site was acknowledged to be highly sensitive.
3. It is no exaggeration to say that, from the moment the first sod was cut in November 2016, the appellant disregarded virtually every aspect of the extant planning permission. So, while it may perhaps appear that the requirements of the Enforcement Notice are severe and draconian in requiring the entire 1.67 hectare site to be returned to its original condition, in reality they are totally justified. It is not simply the case that the appellant wished to make seemingly minor alterations to an existing permission, he was seeking to ride roughshod over the democratic planning process by ignoring virtually all the requirements of the extant permission and then seeking to trivialise his actions.
4. The results of the appellant's actions are the loss of a large area of gently-sloping, chalk downland, which used to make up the majority of the 1.67 hectare site, and the more visually intrusive and prominent siting of the dwelling within the site, a dwelling which will no longer be screened from both near and distant views by existing, mature trees and shrubs, as previously approved.
5. The appellant's actions, none of which were authorised and which led to the above results, included but were not limited to:
 - Contravention of Condition 9, which removed permitted development rights "*due to the site's sensitive landscape location*", by the conversion of the integral double garage into a residential annexe.
 - Further contravention of Condition 9 by re-siting the dwelling approximately 4 metres further down the site so as to accommodate instead an attached triple garage on the front of the dwelling. The foundations for this unauthorised garage were completed to above ground level but have since been just covered over.
 - Excavation to a depth of approximately 1.5 metres immediately adjacent to the western boundary at the top of the site, very close to the existing hedgerow with the strong possibility of damage to it, as part of the construction work for the afore-mentioned unauthorised, attached triple garage.
 - The formation of a large, level, terraced area at the rear of the new dwelling.

- The destruction of the landscape by the excavation of a huge area of the lower half of the site, extending to 2 metres in depth where it has been cut into the slope of the land and reported verbally to the planning representative of the Olivers Battery Parish Council as the intended site of an [unapproved] equestrian manège.
 - The further destruction of the landscape by the re-contouring of the remainder of the lower half of the site by building up the ground level to form a level plateau which drops abruptly down a 2 metre escarpment to the bridleway running along the eastern boundary.
 - The inclusion of the rubble from the demolition of the existing buildings in the formation of the above re-contouring along the eastern boundary.
 - The removal of the clump of trees to the immediate south-east of the new dwelling, referenced on the approved Landscape Masterplan (referenced in the extant permission) as an “*existing group of mixed species planting of laurel, hazel and fruit*”. They are also clearly shown on the approved site plan also referenced in the extant permission.
 - The removal of the chalk downland surface vegetation over almost the entire site, not just in way of the new dwelling (see satellite image at Appendix).
6. The local planning authority was made aware of many of the above infringements as early as December 2016.
7. Turning now to the appellant’s Appeal Statement, there are a number of items on which I wish to comment:
- Of note is that no mention is made within the Statement of the requirement to re-instate the original site levels over the entire 1.67 hectare site as detailed under the third of the four steps to be taken in the Enforcement Notice; the appellant has chosen only to argue against re-instating the site levels in way of the dwelling.
 - Paragraph 2.1 states that the appeal site is the site of a former two-storey dwelling, which was itself a replacement dwelling permitted in 2004. This is incorrect on two counts. Firstly, the former dwelling dated from just after the First World War and was a bungalow, not a two-storey dwelling, and secondly, the planning permission granted in 2004 was for the neighbouring property at 2 Texas Drive (planning application reference 04/01089/FUL).
 - The photograph at paragraph 2.2 of the view along Texas Drive was taken before the appellant commenced work on the site and is therefore misleading. The appellant has since resurfaced the track with road planings, altering its character and, it is understood, without first seeking the landowner’s permission or planning approval.
 - The photograph at paragraph 2.11 of the view looking north into the appeal site was taken before the appellant commenced work on the site and is therefore misleading. The engineering operations the appellant has since undertaken have altered the character, appearance and levels of virtually the entire 1.67 hectare site.
 - Paragraph 3.3 states that the [refused] planning application was supported by some members of the public. Whilst this is true, it should be noted that NONE were local residents and therefore none of them were affected by the development.
 - It is stated at paragraphs 4.2 and 6.1 that the alterations to the approved floor plans are to accommodate the appellant’s mother and paragraph 6.1 also states that this requirement

only arose after the extant permission was granted. These statements need to be challenged on two counts. Firstly, it is a matter of public record that the appellant's partner appeared before Olivers Battery Parish Council on 7 March 2017 and before the WCC Planning Committee on 14 December 2017, on both occasions pleading that the unauthorised alterations were necessary to accommodate HER elderly mother, not the appellant's. In addition, those members of the public who wrote in support of the refused application also referred to the need to provide accommodation for HER elderly mother, not the appellant's. Secondly, the need to accommodate and care for HER elderly mother had already been accepted as a reason to overturn a planning condition prohibiting the use of a garage for living accommodation at their existing property at Woodhams Farm in Kings Worthy in 2011 (planning application reference 11/01080/FUL). Rather than being a recent requirement (as stated at paragraph 6.1), this need to provide accommodation so as to care for her elderly mother had been known for at least 5 years. Whilst this may not be relevant to the Appeal, the appellant has raised the subject, so I feel duty bound to respond.

- Paragraph 6.11 refers to plans attached at Appendices 1 and 2 as demonstrating the differences in visual intrusion caused by the unauthorised relocation of the dwelling. There are, however, significant anomalies in the north and the south context elevations contained in the two Appendices. Namely, whilst those at Appendix 1 (as approved drawings) at pages 30 and 31 and dated July 2016 both show the existing, demolished bungalow located entirely within the footprint of the as approved new dwelling, those at Appendix 2 (new, proposed drawings) at pages 34 and 35 and dated August 2017 both show the existing, demolished bungalow located partially outside the footprint of the as approved new dwelling. This has the effect of downplaying the difference in aspect between the new, proposed and the as approved locations of the new dwelling.
 - Furthermore, neither the north nor the south context elevations at Appendix 2 (new, proposed drawings) show the large, level, terraced area that has been created at the rear of the new dwelling and the depiction of the new site levels to the east of the dwelling are highly misleading in both.
8. The fields to the north, south and west of the site have, I understand, recently been awarded ACV status, which makes it even more important that the entire 1.67 hectare site is returned to its former condition, as required under the Enforcement Notice. The appellant has already shown manifest disregard for planning control, for the conditions attached to the extant planning permission, for the democratic planning process in general and for the environment. If the requirements of the Enforcement Notice are not imposed, it will send the wrong signal to all developers of a like mind as well as damaging the credibility of the entire planning process.
9. I urge that the Enforcement Notice Appeal be dismissed.

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8th November 2018

Satellite Image dating from Spring 2017 showing the scale of the unauthorised works

Topsoil has already been redistributed over the north-eastern segment. The clump of trees in the centre of the site has since been removed. The footings for the attached garage are still visible on the front of the dwelling.



APPENDIX



400 ft