

WEST OXFORDSHIRE DISTRICT COUNCIL
UPLANDS AREA PLANNING SUB-COMMITTEE
MONDAY 7 AUGUST 2017

UNAUTHORISED ERECTION OF A 1.8M HIGH CLOSE BOARDED FENCE
ADJACENT TO AND WITHIN THE HIGHWAY
AT WESTWICK, 66 OVER NORTON ROAD ,CHIPPING NORTON
REPORT OF THE HEAD OF PLANNING AND STRATEGIC HOUSING

(Contact: Kim Smith : (01993) 8616576)

(The decision on this matter will be a resolution)

1. PURPOSE

To enable Members to consider whether it is expedient to authorise enforcement action to secure removal of the fence.

2. RECOMMENDATION

That Member's authorise the issue of an enforcement notice to secure removal of the fence within 2 months of the notice coming into effect. Further, if compliance with the notice is not secured to institute further actions to secure compliance.

3. BACKGROUND

3.1 Following a complaint it has come to light that a 1.8m high close boarded fence has been erected on land adjacent to a classified road between Chipping Norton and Over Norton. The fence is greater than one metre high and therefore comes under planning control. Approximately a 60 metre length of the fence is located within the highway. In an attempt to secure planning permission for modifications to the fence an application has been submitted for a reduction in height and re-alignment of the fence out of the highway. This application will be considered at the Sub Committee meeting of the 7 August. The site is located within the Cotswolds Area of Outstanding Natural Beauty and is considered to affect the setting of the Over Norton Conservation Area.

3.2 In considering the expediency of taking formal enforcement action to secure removal of the fence the key considerations are the impact of the unauthorised development on the landscape and scenic beauty of the Cotswolds Area of Outstanding Natural Beauty and on the setting of the Over Norton Conservation Area.

3.3 The close boarded fence by reason of its height (1.8m) and materials (close boarded fencing) and alignment along a significant length of the highway appears as an alien and incongruous urbanising feature which fails conserve and enhance the scenic beauty of this important leafy green open space between the two settlements and results visual harm. Given that the Cotswolds Area of Outstanding Natural Beauty has the highest status of protection in relation to landscape and scenic beauty and

the great weight afforded in policy terms to achieving conservation and enhancement, the unauthorised development is considered contrary to NE4 of the adopted West Oxfordshire Local Plan, EH1 of the Emerging Local Plan and Paragraph 115 of the NPPF.

3.4 The rural tree lined corridor that forms an important open space between the town of Chipping and the village of Over Norton contributes significantly to the setting of the Over Norton Conservation Area. The policy test for development affecting the setting of any Conservation Area is that the character or appearance of the setting is not eroded by the introduction of unsympathetic development proposals. For the reasons cited above in respect of the Area of Outstanding Natural Beauty assessment, the unauthorised fence by reason of its adverse urbanising impact on the rural character and appearance of the important open space linking town and village in your Officers opinion results in an unacceptable harmful erosion of the setting of the Conservation Area. Whilst this impact may be considered less than substantial there are in your Officers opinion no public benefits which outweigh this harm. Bearing in mind the above the development is considered contrary to policies BE5 of the Adopted Local Plan, EH7 of the Emerging Local Plan and relevant paragraphs of the NPPF.

3.5 In light of the above, having considered the relevant planning policies and all other material considerations, your officers are recommending that formal enforcement action is taken by way of the issue of an enforcement notice in respect of the unauthorised fence. Your officers are of the opinion that it is expedient to progress to formal enforcement action for the reasons noted in paragraphs 3.3 and 3.4 of this report.

3.6 Given that enforcement action would require the land owner to remove the fence their human rights under Article 1 of the First Protocol of the European Convention on Human Rights (protection of property) must be considered. Any interference with the owner's right to the peaceful enjoyment of their possessions must be balanced against the Council's legitimate aims of acting in the public interest. The objections to the retention of the unauthorised fence are serious ones and it is considered that the public interest can only be safeguarded through a requirement to remove the fence. It is considered that the public interest in protecting the environment from the effects of the development outweigh the interference with owners' rights to peaceful enjoyment of their possessions.

3.7 The National Planning Policy Framework states that 'effective enforcement is important as a means of maintaining confidence in the planning system'. Having regard to this principle, it is considered that the enforcement action to require the removal of the 1.8 metre high close boarded as recommended is an expedient and a proportionate response to the harm identified in this report.

4. ALTERNATIVES/OPTIONS

Members may consider that the harm outlined in your officers report, is not so 'significant' such that it is expedient to take formal enforcement action.

5. FINANCIAL IMPLICATIONS

None at this stage.

6. RISKS

None at this stage.

7. REASONS

See Section 3 above.

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Date: 20th July 2017

Background Papers:
None