
Appeal Decision

Site visit made on 5 January 2017

by Simon N Hand MA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 January 2017

Appeal Ref: APP/E9505/C/16/3145873

Staithe n Willow, 16 Lower Street, Horning, NR12 8AA

- 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 Joy Christine Self against an enforcement notice issued by The Broads Planning Authority.
 - The enforcement notice was issued on 1 February 2016.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a two metre high close-boarded wooden fence and gate with concrete fencing posts and gravel boards on the north-eastern and southern boundary of the Premises adjacent to the public highway.
 - The requirements of the notice are; 5.1 to reduce the height of the fence to a maximum of 1 metre in height, when measured from the ground immediately adjacent on the roadside at Lower Street; 5.2 to replace the concrete fence posts with wooden fence posts measuring 10cm x 10cm x 1 metre in height when measured from the ground immediately adjacent to the highway at Lower Street; 5.3 to replace the concrete gravel boards with wooden gravel boards.; 5.4 to reduce the height of the gate to a maximum of 1 metre in height, when measured from the ground immediately adjacent to the highway at the Loke leading to the Parish Staithe; 5.5 to remove from the Premises all materials arising from compliance with paragraph 5.1 above.
 - The period for compliance with the requirements is four weeks for 5.1-5.4 and five weeks for 5.5.
 - The appeal is proceeding on the grounds set out in section 174(2) (c) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

The appeal on Ground (c)

2. This ground is that there has not been a breach of planning control because, for example, permission has already been granted or the fence is permitted development. In this case the appellant is unrepresented, and has provided a rather scattergun approach to her arguments. However, it seems to me that she is saying that when she moved into the property, there was already a 2m fence around the garden and that all she has done is replaced it with a new one.
3. The appellant moved into the property in 2013 at which time the boundary of the garden was overgrown. Photographs show what does seem to have been a fence, which seems to have been the standard 2m fence panels, although it was largely hidden within the overgrown bamboo and ivy. This was entirely

cleared away and the new fence built, which consists of concrete posts and 2m panels in between.

4. Class A of Part 2 of Schedule 2 of the General Permitted Development (England) Order 2015 deals with permitted development rights for fences. Without going into excessive detail this Class allows the maintenance, improvement or alteration of a means of enclosure as long as there is no increase in its height. However, the condition of the old fence seems to have been so poor, and works carried out so extensive that they cannot reasonably be defined as "maintenance, improvement or alteration". In my view they amount to a new development. As such they need to comply with the limitations of Class A which do not allow a fence which is next to a highway to be over 1m.
5. I have some sympathy with the appellant in that she considers she requires private sitting out space, and that in time a new hedge she has planted will grow up and could replace the need for the fence. She also argues that she has actually improved the look of the street by removing the tatty and overgrown hedge. However, none of these are matters I can take into account when considering the technical argument as to whether planning permission is required or not. I could only consider the merits of the new fence under ground (a), for which a separate fee is required. Consequently, on the basis of the evidence I do have, it is clear the 2m fence does not have planning permission and is not permitted development and so the appeal on ground (c) fails.

The Appeal on Ground (f)

6. The appellant also argues that she should not be required to remove all the materials (ie the fence panels and posts), but should be allowed to keep them. Although a ground (f) has not been made this argument is clearly a hidden ground (f), that the requirements are excessive, and I do not consider that either party would be prejudiced if I consider it.
7. It is quite usual for an enforcement notice to require the left over materials to be taken away once an unlawful development has been removed. This is to prevent the old materials being piled up on the site which would be unsightly and undermine one of the purposes of issuing the notice in the first place. The appellant has not suggested any alternative uses these materials could be put to and it is not unreasonable therefore for the Authority to require their removal. However, there is nothing to stop the appellant from re-using the fence panels if they can be cut down to the 1m height required by the notice. The appeal on ground (f) fails.
8. I shall dismiss the appeal and uphold the notice.

Simon Hand

Inspector