



Appeal Decisions

Site visit made on 3 August 2023

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 September 2023

Appeal Ref: APP/X3540/C/22/3297741 & 3297742 26 Highland Drive, Worlingham, Suffolk NR34 7AR

- 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 appeals are made by Mr Michael Clark and Mrs Vanessa Clark against an enforcement notice issued by East Suffolk Council.
 - The enforcement notice was issued on 7 April 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission the erection of a fence adjacent to a highway, which is over 1m in height (shown in blue on the attached plan) contrary to Schedule 2, Part 2, Class A.1(a)(ii) of the Town and Country Planning (General Permitted Development)(England)(Order 2015 (as amended).
 - The requirement of the notice is to:
 1. Permanently reduce the fence to 1m in height.
 - The period for compliance with the requirements is 2 months after this notice takes effect.
 - The appeals are proceeding on the grounds set out in section 174(2) (a), (b) and (f)
 - of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period on the lead appeal (3297741) the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Formal Decision

1. The appeal is allowed, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out; namely the erection of a fence adjacent to a highway on land at 26 Highland Drive, Worlingham, Suffolk NR34 7AR, as referred to in the notice.

The appeals on ground (b)

2. An appeal on ground (b) is that the matters alleged in the enforcement notice have not occurred as a matter of fact.
3. The fence at issue, which adjoins the Highland Drive footway, sits on top of a low wall and, taken together, the height from ground level measures some 1.8m.
4. There is no disagreement between the parties that the fence was in situ at the time the enforcement notice was issued; the Council having responded to a complaint received in this regard.
5. The enforcement notice requires for the fence to be reduced to a height of no more than 1m which, for boundary enclosures adjacent to a highway, is

permissible under Schedule 2, Part 2, Class A.1(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. Given the location of the fence at issue this proviso directly applies in this instance and, as it comprises development, planning permission is required for the fence's lawful retention.

6. Accordingly, the appeals under ground (b) must fail.

The appeal on ground (a); the deemed planning application

7. Highland Drive is characterised by a series of post-war bungalows which are set back from the footway and the individual properties are bounded with either low walls or low hedges. This allows for a general feeling of openness, and is a common arrangement relating to residential development of its time. The appeal property is different from the majority of those along Highland Drive in that it is situated close to a bend in the road and its rear garden is therefore situated directly behind the footway, and backs onto the side boundary of no 24.
8. In this context the Council considers that, due to its size and particular location, the fence is an incongruous and prominent addition to the street scene, and is at odds with other forms of boundary treatments in the immediate locality.
9. The Council cites policy WLP8.29 'Design' of the Waveney District Plan in support of its case. However, when taking all of this policy's provisos into account, it not only requires a high quality design for new development which reflects local scale and character, but also requires, amongst other things, that the provision of a good standard of amenity for the property's occupiers, and should take into account public safety and also should serve to deter crime.
10. It is quite obvious that this standard, timber, garden fence, which sweeps around the appeal property's curtilage, needs to be of such a height so as to perform its functions of privacy and security. Indeed, this is a fundamental requirement for family living, a point raised by the family in the appeal papers. As such, a parallel cannot be reasonably drawn with the low height boundary treatments along Highland Drive.
11. Further to the above point I note that a number of interested parties who, living locally, have made representations in response to this appeal giving support to the development and making the points that the fencing is necessary, is in keeping with the locality, is attractive in form and represents a marked improvement on an unkempt boundary enclosure that was previously in place.
12. In terms of the fence's appearance I must agree with these neighbours' views. From my site visit there are no highway safety implications arising from the fencing's installation, and I note that the Council has not raised this as an issue.
13. At my site visit another boundary fence, sited off a junction further along Highland Drive, was pointed out to me, and I understand that this is also the subject of a current enforcement investigation. However, I have reached my decision on the basis of the merits of the fencing erected at no 26 and the individual circumstances involved and, in accordance with my remit, I have not brought any other specific local boundary enclosures into the reckoning.

14. I have found that the development is not in material conflict with the aims and objectives of policy WLP8.29 and the development plan as a whole. In fact, such fencing to standard garden height is a ubiquitous arrangement throughout the country in instances such as here.
15. Accordingly, for the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted.
16. The appeals on grounds (f) do not therefore need to be considered.

Timothy C King

INSPECTOR