



Appeal Decisions

Site visit made on 8 December 2023

by M. P. Howell BA (Hons) Dip TP MRPTI

an Inspector appointed by the Secretary of State

Decision date: 5TH FEBRUARY 2024

Appeal A Ref: APP/Y1110/C/23/3325606

Appeal B Ref: APP/Y1110/C/23/3325607

Land at 35 Dorset Avenue, Exeter EX4 1ND

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. Appeal A is made by Mr Michael Willis and Appeal B is made by Mrs Amy Willis against an enforcement notice issued by Exeter City Council.
- The notice, numbered ENF/21/00082, was issued on 7 June 2023.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a boundary structure (timber fence) adjacent to the highway above 1m on the east and south boundaries at 35 Dorset Avenue, Exeter EX4 1ND.
- The requirements of the notice are to:
 1. Remove the fence along east and southern boundaries of the Land; and
 2. Dispose of the materials formerly comprising of the fence in a responsible way.
- The period for compliance with the requirement is: three (3) months.
- The appeals are proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary Decisions: Appeal A and Appeal B are dismissed, and the enforcement notice is upheld with variations in the terms set out below in the Formal Decision.

Matters Concerning the Enforcement Notice

1. In paragraph 3, delete the allegation and substitute the words with 'Without planning permission, the erection of a timber fence on the eastern and southern boundaries of the Land.' There is no need to set out the address as the Land is already identified in paragraph 2. It is not necessary for the allegation to say it is a boundary structure or that it is above 1m in height adjacent to a highway as these are reasons why it requires planning permission. In paragraph 5, step 1, delete the word 'east' and substitute with the words 'the eastern'.
2. The above-mentioned variations do not fundamentally change the matters alleged or the requirements. They are simply made for conciseness and to remove superfluous words.

The Appeals on Ground (g)

3. An appeal on this ground is that the period specified in the notice falls short of what should reasonably be allowed. The Notice specifies a compliance period of 3 months starting from the date the notice takes effect. The appellants wish to retain the fence until the school holidays are over and then take it down. However, no specific date has been requested to indicate when the school holidays would end.
4. As the Notice was served in June, it would seem reasonable to assume the appellants are referring to the summer school holidays. The 3 months specified

in the Notice would have lapsed on 7 September 2023, had the appeals not been made. In all likelihood, this would have been within days of the summer school holiday ending. Seeking a short extension of the compliance period, to allow time for the fence to be removed and the resultant waste disposed of would therefore have been justified.

5. Due to the passage of time since the appeal was submitted, more than three months have elapsed, and the summer school holiday period has ended. I saw during my site visit that the fence remains in place. As no other grounds of appeal were made, there would be no reason for the appellants to assume that the fence would not have to be removed. In the absence of any other reasons for extending the compliance period, I find that three months is a reasonable period to remove the fence and dispose of the resultant waste.
6. As such, I do not find that the period specified in the notice falls short of what should reasonably be allowed. The appeals on ground (g) therefore fail.

Conclusion

7. Subject to the variations, the appeals are dismissed, and the enforcement notice is upheld.

Formal Decision

8. It is directed that the enforcement notice is varied by:

In paragraph 3, delete the all the words and substitute the words with 'Without planning permission, the erection of a timber fence on the eastern and southern boundaries of the Land.'

In paragraph 5, step 1, delete the word 'east' and substitute the words 'the eastern.'

9. Subject to the variations, Appeal A and Appeal B are dismissed, and the varied enforcement notice is upheld.

M. P. Howell

INSPECTOR