



Appeal Decisions

Site visit made on 23 July 2024

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2024

Appeal A Ref: APP/P0119/C/23/3331507

Appeal B Ref: APP/P0119/C/23/3331508

Land at The Shoe Box, Siston Lane, Siston

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended). Appeal A is made by Mr Christopher Adams and Appeal B is made by Mrs Karen Adams against an enforcement notice issued by South Gloucestershire Council.
 - The notice was issued on 20 September 2023.
 - The breach of planning control as alleged in the notice is, without planning permission, the erection of a 2 metre high palisade fence that is adjacent to the highway.
 - The requirements of the notice are to:
Permanently remove the fence and constituent materials from the land.
 - The period for compliance with the requirement is: One Month
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decisions

1. The appeals are allowed and the enforcement notice is quashed.

Ground (c)

2. This ground of appeal is that the matters alleged in the notice do not constitute a breach of planning control.
3. The Council contends that while the fence is positioned some 10-11 metres back from the edge of the highway, it is adjacent to the highway and thus is permitted to be only 1 metre in height. In support of this, the Council state that a fence can be adjacent to a highway and still set back from it, provided that the enclosure is clearly to define the boundary of a property from that highway, and it is perceived to do so. While I accept that the fence defines the boundary of the property, in this case, the set back is such that the grass verge at 10-11 metres in depth provides a significant amount of separation between the highway and the fence. As a consequence, the fence is not perceived as the separating feature, but rather the verge is.
4. I further acknowledge that there are no intervening features or boundary treatments present within the grass verge. Nonetheless, the degree of separation is such that in my view the fence cannot reasonably be said to be adjacent to the highway. Other properties within the area have their front boundaries set back from the highway, most to a lesser degree than the appeal site, even so this does not persuade me that I should consider the fence as being adjacent to the highway.

5. It is argued by the Council that the fence forms the effective boundary between the public domain of the highway and the appellant's private garden area. However, I consider that it forms the boundary between the grass verge and the private garden area, not the highway. It is the grass verge that provides the distinction between highway and the appellant's property.
6. I therefore find that the erection of a 2 metre high fence as exists would be permitted development, in accord with Class A, Part 2 of The Town and Country (General Permitted Development) (England) Order 2015. Thus, there has not been a breach of planning control and the appeals under ground (c) must succeed.

Conclusion

7. For the reasons given above, I conclude that the appeals should succeed on ground (c). The enforcement notice will be quashed.
8. In these circumstances, the appeals on grounds (f) and (g) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act (as amended) do not fall to be considered.

Martin Allen

INSPECTOR