



Appeal Decision

Site visit made on 26 February 2025

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 FEBRUARY 2025

Appeal Ref: APP/Y3425/X/24/3344450

64 Ford Drive, Yarnfield, Stone, Staffordshire, ST15 0RP

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Peter Atkinson against the decision of Stafford Borough Council.
 - The application ref PP-12956607, dated 4 April 2024, was refused by notice dated 13 May 2024.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is a proposed 2-metre-high fence to the front of the property adjacent to the highway.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of proposed development from the Council's refusal notice as this more precisely describes the proposed development when compared to the description of development appearing on the applicant's application form.
3. Section 192(2) of the Act states that if, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.
4. An LDC is not a planning permission. Its purpose is to enable owners and others to ascertain whether specific operations or activities would be lawful. Therefore, for the avoidance of doubt, I make clear that the planning merits of the proposed fence are not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority.

Main Issue

5. The main issue is whether the Council's decision to refuse to grant an LDC was well founded with particular regard as to whether it has been demonstrated that the proposed fence would be permitted development under Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order).

Reasons

6. It is proposed to replace a hedge to the front of the property, which is understood to be dying and measures about three metres in height, with a new fence measuring two metres in height.
7. The appellant considers that as there are other fences of a similar height in the locality and the hedge is higher than the proposed fence, then it should not require planning permission. Whether the fence requires planning permission or not is dictated by the limitations and restrictions imposed in Class A of Part 2 of Schedule 2 of the Order. This states that the erection of a fence is not permitted development if the height of such a fence erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed 1 metre above ground level.
8. At two metres in height, the proposed fence would exceed 1 metre in height above ground level. Moreover, it would be adjacent to a highway used by vehicular traffic. The appellant's comments made as part of this appeal are pertinent to the consideration of the planning merits of the proposed development as distinct from whether the fence needs planning permission or not.
9. For the above reason, I find that the proposed fence is not permitted development and therefore planning permission is required for it.

Conclusion

10. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development in respect of a proposed 2-metre-high fence to the front of the property and adjacent to the highway was well founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

D Hartley

INSPECTOR