



Appeal Decision

Site visit made on 4 March 2025

by **Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 March 2025

Appeal Ref: APP/K0235/C/23/3316861

21 Wood Road, Harrold, Bedford MK43 7BS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Miss Dina Malick against an enforcement notice issued by Bedford Borough Council.
- The notice was issued on 17 January 2023.
- The breach of planning control as alleged in the notice is Without planning permission, the erection of a single storey outbuilding and the erection of a 2.3m boundary fence adjacent to the highway.
- The requirements of the notice are to:
 - i) *Demolish the outbuilding outlined in blue on the attached plan*
 - ii) *Remove the composite boundary fence and supporting posts marked green on the attached plan*
 - iii) *Remove all resultant waste and materials from (i) and (ii) from the land*
 - iv) *Return the land to its condition prior to the works being carried out*
- The periods for compliance with the requirements are:
 - i) *4 Months from the date this notice takes effect*
 - ii) *4 Months from the date this notice takes effect*
 - iii) *6 Months from the date this notice takes effect*
 - iv) *7 Months from the date this notice takes effect*
- The appeal is proceeding on the ground[s] set out in section 174(2) (a) and (f) 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.

Summary of decision: The appeal is dismissed, and the enforcement notice is upheld subject to the corrections in the terms set out in the Decision below.

Decision

1. It is directed that the enforcement notice is corrected by:
 - The deletion of the description of the alleged breach of planning control at 3. i) and the substitution with the following description:

“Without planning permission the erection of a single storey outbuilding outlined in blue on the attached plan, and the erection of a 2.3m composite boundary fence and supporting posts marked in green on the attached plan.”
 - The deletion of the wording of requirements i) and ii) and the substitution with the words:

“i) Demolish the single storey outbuilding outlined in blue on the attached plan”

“ii) Remove the 2.3m composite boundary fence and supporting posts marked in green on the attached plan”
2. Subject to the corrections the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have

been made under section 177(5) of the Town and Country Planning Act 1990 as amended (the 1990 Act).

Preliminary Matters

3. There has been a revised National Planning Policy Framework (the Framework) published by the Government since the enforcement notice was issued. However, it does not raise new issues that are determinative for the purposes of my assessment and therefore injustice to the parties does not arise.
4. Since the enforcement notice has been served, the appellant has made alterations to matters alleged in the notice. At the time of my visit, the internal walls within the outbuilding subject to the corrected notice had been removed and the use comprised little more than ancillary storage. The original pitched roof had also been removed and a flat roof was in the process of being constructed. Furthermore, the composite boundary fence subject to the corrected notice fronting the roadside had been removed and replaced with a close board timber fence, at a similar height, which included a pedestrian gate to access the rear garden. Whilst this forms a different development to that alleged in the notice, I have based my decision on the development that existed at the time the enforcement notice was served.

Appeal on ground (a), the deemed planning application

Main Issue

5. The main issue is the effect of the development on the character and appearance of the area.

Reasons

Character and appearance

6. The appeal site is a 2-storey semi-detached single family dwelling located on a corner plot close to the entrance to a residential cul-de-sac off Wood Road. The area has a tranquil, verdant and semi-rural feel, given it is located opposite an area of open countryside and on the edge of the village of Harrold.
7. The surrounding area is characterised by similarly styled houses but with notably lower boundary treatments comprising a mix of low brick walls, close-boarded timber fences and established vegetated boundaries providing demarcation to properties and privacy.
8. I also noted several small garages and outbuildings in the locality, specifically the structure at number 3 Wood Road opposite the site. Whilst this outbuilding is a large unit, it appears to be set at a lower ground level than the appeal site, has a more shed like appearance and benefits from a high degree of established green screening. As such, this example appears distinctly more inconspicuous within the streetscene. Furthermore, I have not been supplied with the relevant planning history associated with this structure, and therefore I have given this example limited weight in my considerations.
9. The developments subject to the notice as corrected, consist of a single-storey outbuilding adjoining the flank elevation and visible from public vantage points with

a depth akin to the host property. The notice is also directed at a 2.3m composite boundary fence and supporting posts which front the roadside of Wood Road.

Outbuilding

10. In regard to the outbuilding, the structure provides a deep development occupying a significant proportion of the garden along the flank of the host property. The scale, mass and footprint are relatively large in comparison with the host property and given its corner location the building occupies a conspicuous position with views from other properties and the streetscene. Whilst I acknowledge that outbuildings are a feature within the area, (including but not limited to number 3 Wood Road) I noted that generally these appear lower-level, more domestic in nature with several benefiting from screening, unlike the current development here. As a result, the overly large and prominent outbuilding appears incongruous and out-of-character with the pattern of development in Wood Road. My findings in this matter would be consistent with the previous Inspector decisions¹ which have been dismissed at the same site for similar developments.
11. Consequently, the outbuilding would be detrimental to the character of the streetscene and would conflict with policies 28, 29 and 30 of the Bedford Local Plan (BLP) 2030, adopted January 2020, and the aims and objectives of the Harrold Neighbourhood Plan (HNP) 2020-2030, which collectively seek development to be high quality design, which respects context and local distinctness and complements the character of the area in which the development is located, amongst other things.

Boundary fence

12. With regard to the fence subject to the notice as corrected, as stated above the semi-rural and relatively open feel of the village of Harrold is a positive characteristic of the area. Generally, the examples of boundary treatments fronting the roadside within the locality comprise a mixture of close-boarded timber fences, walls and established verdant vegetated boundaries. The majority of these are low-level and short in length and contribute positively to the village setting.
13. The fence that is the subject of the appeal is 2.3 metres in height and extends a significant length along Wood Road. Due to its height and length, it creates an undue sense of enclosure that fails to reflect the character and appearance of the local area, providing a distinctly more urban appearance. This would be considered incompatible within the semi-rural village setting.
14. I acknowledge that the fence provides increased security, privacy and prevents the appellants dogs from escaping. I also acknowledge concerns of the appellant in respect to a fear of crime, however whilst I do not doubt these are legitimate concerns there is not a sufficiently robust evidential base before me to conclude the provision of such a high fence is essential. Nor do I find that this matter outweighs the harm to the character and appearance of the area by reason of its height. As such the provision of a high fence would be significantly out of keeping within the surrounding area, and thus as with the outbuilding, the fence would be contrary to BLP policies 28, 29 and 30 and the aims and objectives of the HNP.

Conclusion on ground (a)

¹ PINS Refs: APP/K0235/D/21/3288674 and APP/K0235/D/22/3307559

15. The outbuilding and fence cause unacceptable harm to the character and appearance of the surrounding area, in conflict with the Development Plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the Development Plan. Consequently, the ground (a) appeal does not succeed.

Appeal on ground (f)

16. An appeal on ground (f) is made on the basis that the requirements of the notice exceed what is necessary. S173(4) of the 1990 Act sets out the purposes which an enforcement notice may seek to achieve. They are either (a) remedying of the breach of planning control or (b) remedying any injury to amenity which has been caused by the breach.
17. The notice requires the outbuilding and the boundary fence to be removed. This is as opposed to requiring these structures to be modified by, for example, reducing them in size. Removing the outbuilding and the boundary fence would restore the land to its condition before the breach took place. Therefore, the purpose of the notice must be to remedy the breach.
18. The appellant has suggested modifications to the existing outbuilding and the 2.3 metre fence in order to provide appropriate alternative schemes. As witnessed on site the appellant has sought to remove the pitched roof and reinstate a flat roof at approximately 3 metres in height. The appellant contends the outbuilding would thus fall within development 'permitted' under Article 3(1) and Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). Similarly, the appellant contends the fence could be reduced to 1 metre in height and would therefore benefit from permitted development rights, under Schedule 2, Part 2, Class A of the GPDO.
19. However, Article 3(5)(a) of the GPDO states permission granted by Schedule 2 does not apply if in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful. Neither party disputes that either the outbuilding or the 2.3 metre fence are either existing or unlawful. As such, despite the modifications suggested, given their existing and unlawful status the structures could not benefit as permitted development.
20. Even if, the outbuilding was not considered unlawful, the Council has concluded that the proposed outbuilding does not benefit from the aforementioned permitted development rights, as the existing outbuilding would not be for a use incidental to the enjoyment of the dwellinghouse. The Council has also refused a lawful development certificate² application to that effect, although this scheme is not before me.
21. It is acknowledged that the alterations to the roof of the outbuilding to provide a flat roof have reduced the visual impacts of the development from public vantage points. Nevertheless, the development is still highly visible in the locality given the corner location and its positioning on the flank elevation. Despite its reduction, this does not alter my findings that the proposal would fail to respond positively to its context and given its prominence would be of an inappropriate design. Similarly, the change in materials to timber and the reduction in height of the fence are

² Bedford Borough Council Planning Ref: 24/00147/LDP

maybe more appropriate to maintain security for the appellant. However, it is likely that a boundary enclosure height more than 1 metre would be required along the return frontage, which would still require planning permission.

22. Since replacing the pitched roof with a flat roof and reducing the fence to 1 metre in height would mean that parts of the development in the notice would remain in situ, the breach of planning control would not be remedied. This would not achieve the purpose of the notice as the property would not be restored to its condition before the breach took place. As a result, the lesser steps proposed by the appellant are not an obvious alternative to the notice requirements. No other alternative to those requirements was advanced and to my mind, none would remedy the breach.
23. Therefore, the steps set out in the notice are not excessive; they are proportionate and commensurate to the breach of planning control, being the minimum that is required to restore the property to its condition prior to the breach taking place. As a consequence, the ground (f) appeal also fails.

Conclusion

24. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the application deemed to have been made under S177(5) of the 1990 Act (as amended).

Robert Naylor

INSPECTOR