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## Appeal Decisions

Site visit made on 18 March 2025

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

an Inspector appointed by the Secretary of State

**Decision date: 31 March 2025**

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### **Appeal A Ref: APP/A3655/C/23/3323483**

#### **April Cottage, 63 Westfield Avenue, Westfield, Woking, Surrey GU22 9PG**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Alexander Drummond against an enforcement notice issued by Woking Borough Council.
- The notice was issued on 10 May 2023.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a means of enclosure in excess of 1 metre in height adjacent to a highway compromising a white rendered wall and pillars with timber infill panels measuring 1.8m in height at the front of the Land as shown in the attached photos.
- The requirements of the notice are:
  - i) *Permanently remove from the Land those parts of enclosure described at paragraph 3 above that are in excess of 1 metre in height measured from the adjacent ground level; and*
  - ii) *Remove from the Land all materials, rubble, debris and paraphernalia associated with and arising from compliance with requirement (i) above.*
- The period for compliance with the requirements is: *Six (6) months after this notice takes effect*
- The appeal is proceeding on the ground set out in section 174(2)(a) 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 correction in the terms set out in the Formal Decision below.

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### **Appeal B Ref: APP/A3655/W/23/3323152**

#### **April Cottage, 63 Westfield Avenue, Westfield, Woking, Surrey GU22 9PG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Alexander Drummond against the decision of Woking Borough Council.
- The application Ref is PLAN/2023/0013, dated 7 February 2023, was refused by notice dated 13 April 2023.
- The development proposed is described as a roller gate at the front entrance in line with the look of the current fencing. Height of the gate would be 180cm and width across the opening is 450cm, in addition to applying for retrospective planning for the fence.

**Summary of decision:** The appeal is dismissed

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## Decisions

### Appeal A

1. The requirements at paragraph 5.(i) of the enforcement notice include the word 'permanently.' Having regard to the provisions of Section 181(1) of the Town and Country Planning Act 1990 as amended (the 1990 Act), which states that compliance with an enforcement notice shall not discharge that notice, the word 'permanently' is unnecessary. I shall therefore delete it and in so I will correct the notice. I am satisfied that no injustice would be caused by doing so.

2. Subject to the correction 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).

### Appeal B

3. The appeal is dismissed.

### **Preliminary Matters**

4. 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.

### **Appeal A on ground (a), the deemed planning application, and Appeal B**

#### Main Issue

5. Ground (a) is that planning permission should be granted for the matters alleged in the enforcement notice. The main issue therefore is the effect of the development on the character and appearance of the area.

#### Reasons

##### *Character and appearance*

6. The appeal site consists of a detached chalet style bungalow located on the eastern side of Westfield Avenue in Woking, adjoining the main stand at Woking Football Club (FC). Despite the presence of Woking FC the area has a strong suburban residential feel. The appeal site occupies a transitional location between a lower density and traditional style of residential development to the south of the appeal site, and the denser residential style of development within Sycamore Avenue to the north.
7. These areas have their own distinct rhythm and appearance, with the northern area consisting of three and four storey contemporary flatted and terrace properties, while the southern section consists mainly of traditional detached bungalow properties, albeit some of these have been extended to provide living accommodation in the roof space similar to the appeal site. It is therefore acknowledged that the character and appearance is varied in terms of the design, material and styles of the properties. Nevertheless, despite this variation the overall appearance of the street scene provides for a stepped down effect in terms of height, and decrease in scale and density, as one moves away from the contemporary development and Woking FC towards the open fronted and lower-level bungalows at the southern end of the road.
8. Despite its transitional location, being a detached chalet style bungalow, the appeal site exhibits features and characteristics more associated with the traditionally designed low building level and low-density character in the vicinity. There is a distinct rhythm and pattern to the development in this part of Westfield Avenue with properties set back from the roadside, with open gardens and forecourts generally located to the front in a traditional arrangement. The existing properties exhibit a consistent appearance, albeit varying in materiality at the front

along the roadside, with low level and domestic demarcation features such as fences, walls and hedges providing a proportionate response.

9. In contrast, the 1.8 metre enclosure at the appeal site, consisting of a white rendered wall with rendered pillars and timber infill panels provides an uncharacteristically tall and imposing structure, which appears disproportionate and incongruous within the surrounding area. The structure appears at odds with the more open and low-level character that comprises dwellings with conventional and domestic boundary treatments at the front.
10. The appellant draws my attention to other examples of higher boundary treatments in the area, notably at numbers 27, 28 and 50 Westfields Avenue. Regarding these examples, they are not a general feature in the vicinity and do not provide an overriding influence over the character of the area or street scene. Furthermore, I have no evidence in respect to the planning history associated with these structures or indeed whether they are lawful. Consequently, I give these examples limited weight. In any event, I have determined these appeals on their own merits based on all the evidence presented.
11. I acknowledge that the fence provides increased security and privacy for the appellant given the proximity to Woking FC. I also acknowledge concerns of the appellant in respect to a fear of anti-social behaviour, 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 means of enclosure 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.
12. Consequently, the 1.8-metre-high enclosure would be detrimental to the character of the streetscene and would conflict with the relevant provisions of policies CS21 and CS24 of the Woking Local Development Document Core Strategy, adopted October 2012, and the aims and objectives of the Woking Borough Council Outlook, Amenity, Privacy and Daylight Supplementary Planning Document (SPD), adopted February 2022 and the Woking Design SPD, adopted February 2015. These collectively seek to provide places that are attractive with their own identity that respect and positively contribute to the street scene and the character within which they are located, thus improving the quality of design in development across the borough, amongst other things.
13. Overall, the 1.8-metre-high enclosure causes 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. The enforcement notice will be upheld with a correction. Consequently, the ground (a) appeal in Appeal A does not succeed. Furthermore, Appeal B is also dismissed.

### **Other matters**

14. The enforcement notice requires the removal of the parts of the enclosure which are more than 1 metre in height measured from the adjacent ground level. Under S173(11) of the 1990 Act the remaining section of the enclosure shall be treated as having gained planning permission granted by virtue of S73A of the 1990 Act in respect of development consisting of the construction of these works.

## **Conclusion**

15. For the reasons given above, I conclude that the Appeal A should not succeed. I shall uphold the enforcement notice with a correction and refuse to grant planning permission on the application deemed to have been made under S177(5) of the 1990 Act (as amended).
16. For the reasons given above, I conclude that Appeal B should also not succeed.

*Robert Naylor*

INSPECTOR