



Appeal Decisions

Site visit made on 30 April 2025

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st MAY 2025

Appeal A Ref: APP/F2415/C/24/3339817

Appeal B Ref: APP/F2415/C/24/3339818

9 Lubenham Hill, Market Harborough, LE16 9DG

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended). Appeal A is made by Mr Pascal Trystram and Appeal B is made by Mrs Eileen Trystram against an enforcement notice issued by Harborough District Council.
 - The notice was issued on 10 January 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a fence fronting the highway exceeding 1 (one) metre in height (the “unauthorised development”).
 - The requirements of the notice are to either a) remove the fence in its entirety, or b) reduce the height of the fence to a height not exceeding 1 (one) metre from the original ground level.
 - The period for compliance with the requirements is three months.
 - The appeals are proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since appeals have 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

Appeal A Ref: APP/F2415/C/24/3339817

1. 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 1990 Act as amended.

Appeal B Ref: APP/F2415/C/24/3339818

2. 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 1990 Act as amended.

Preliminary Matters

3. The National Planning Policy Framework was revised in December 2024 (the 2024 Framework). This replaces the previous version of the National Planning Policy Framework published in December 2023. The 2024 Framework has not materially changed in terms of the consideration of the ground (a) appeal main issues below. Therefore, it has not therefore been necessary for me to seek comments from the main parties about the implications of the 2024 Framework.

4. The evidence is that the fence has been considered by other Inspectors as part of dismissed appeals¹ made under section 78 of the Act. One appeal related to the fence as built and the other related to a revised proposal to alter its height to 1.45 metres. These appeal decisions, and the comments of the Inspectors therein, are matters to which I afford significant weight in decision making terms.

Main Issue

5. The appeals are made under ground (a) which is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice. I have considered the reason for issuing the notice and the main issue is the effect of the development on the character and appearance of the area.

Reasons

6. The appeal site relates to a detached dwellinghouse that faces Lubenham Hill in a predominantly residential area. Apart from a couple of gaps for vehicular and pedestrian access, the fence encloses the front forecourt of the dwellinghouse. It is about 1.8 metres in height, has horizontal timber slats in a dark grey colour, and wooden posts. The evidence indicates that established foliage was removed to facilitate the erection of the appeal fence.
7. While there is the odd exception, the area is generally characterised as having either hedges or low boundary walls in respect of frontage boundary treatment facing Lubenham Hill. Overall, the frontage boundary treatment in this street is experienced as being 'low key' and ancillary in scale to the host properties. It provides a soft frontage edge to most of the dwellinghouses along this road and ensures that many of the large, imposing, and characterful properties can be seen by passers-by. This adds positively and distinctively to the overall spacious and landscaped character of this established residential environment.
8. Owing to the height, extent, and modern colour/design of the appeal fence, I find that it is experienced as being a dominant and discordant addition in the street-scene. Indeed, it departs unacceptably from the otherwise low-lying or softer form of frontage boundary treatment that exists along Lubenham Hill. I acknowledge that brick walls and fencing exist in Welland Park Road which is near to the appeal site. However, this form of boundary treatment relates to the rear of associated dwellinghouses and, moreover, given its appearance and height do not find that it makes a very positive contribution in the street-scene. Like a previous Inspector, I also consider that this boundary treatment is appreciated as marking the physical edge to other built development. It is seen as being physically separate from the front of the dwellinghouses which exist along Lubenham Hill.
9. Moreover, I note that long and imposing wooden fences exist at both Nos. 2 and 4 Lubenham Hill, and a low-level gabion wall exists at the property adjacent to the appeal site. The gabion wall is not as high as the subject fence and, furthermore, the evidence is that planning permission was not sought for this development. Similarly, the evidence is that planning permission has not been approved for fencing at Nos. 2 and 4 Lubenham Hill, although the Council suggests that the fence at No. 2 Lubenham Hill may now be immune from enforcement action owing to the passage of time. There are other examples of

¹ Appeal reference numbers APP/F2415/D/22/3294567 (12 May 2022) and APP/F2415/D/23/3327821 (18 October 2023)

other boundary treatments in Lubenham Hill that fail to reflect the prevailing character and appearance of the area. In this context, they do not set a desirable precedent to follow.

10. For the reasons outlined above, I conclude that the appeal fence causes material harm to the character and appearance of the area. In this regard, it does not accord with the design, character, and appearance requirements of policy GD8 of the adopted 2019 Harborough District Local Plan 2011-2031, and chapter 12 of the 2024 Framework. While I do not doubt that the fence offers some privacy and security including from passing traffic, these are not matters that are sufficient to outweigh the harm that has been caused in respect of my conclusion on the main issue. Therefore, the ground (a) appeals fail.

Overall Conclusion

11. I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the applications deemed to have been made under section 177(5) of the 1990 Act (as amended).

D Hartley

INSPECTOR