



Appeal Decision

Site visit made on 7 May 2025

by **AJ Steen BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 May 2025

Appeal Ref: APP/E2205/C/25/3358367

Little Paddock Farm, Canterbury Road, Challock, Ashford, Kent TN25 4DW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Raymond Pearce against an enforcement notice issued by Ashford Borough Council.
- The notice was issued on 3 December 2024.
- The breach of planning control as alleged in the notice is without planning permission, erection of a fence, walls, piers and gate exceeding one metre in height adjacent to a highway used by vehicular traffic.
- The requirements of the notice are to:
 - (i) Demolish and remove permanently from the Land or reduce to not more than one metre in height the fence, walls, piers and gate (shown marked in the approximate position(s) on the attached Plan B).
 - (ii) Remove permanently from the Land all materials, waste and debris resulting from compliance with step 5(i) (above).
- The periods for compliance with the requirements are:
 - (i) 3 months
 - (ii) 4 months
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: the appeal succeeds in part and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision.

The Appeal on Ground (f)

1. An appeal on this ground is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
2. In this case, the requirements seek the removal of the fence, walls, piers and gate, or, in the alternative, to reduce their height to no more than 1m. The alternative appears to underenforce, seeking the fence be reduced to the height granted planning permission adjacent to a highway under Class A, Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). However, the Council indicate that their intention in drafting the requirements was to remedy the breach of planning control. Taking all of this into account, I consider that the purpose of the notice requirements is to remedy the breach of planning control.
3. The appellant suggests that part of the fence, walls, piers and gate are not adjacent to the highway. Class A, Part 2, Schedule 2 of the GPDO grants planning permission for the erection of gates, fences, walls and other means of enclosure up to 2m in height where they are located away from the highway. As the Council set

out, the rights provided in the GPDO do not apply retrospectively. The suggestion that the height could be reduced to 1.5m or 2m in parts would not remedy the breach of planning control.

4. Since there is no appeal on ground (a) there is no deemed application for planning permission before me. As a result, I am unable to consider granting planning permission for the existing development, or part of it, to remain.
5. For these reasons, I conclude that the appeal under ground (f) should fail.

The Appeal on Ground (g)

6. An appeal on this ground is that the period specified in the notice for compliance falls short of what should reasonably be allowed.
7. The appellant suggests that 9 months would be required for compliance. They indicate this would be required to find a suitable building firm to take on the work with reference to a building surveyor and ensure the appropriate paperwork is in place.
8. I accept that it may take some time to find a suitable contractor and, taking account of the appeal, it is reasonable for the appellant to wait until this point to seek to find a contractor. Nevertheless, the requirements would result in reasonably straightforward works. I do not accept that the extensive period suggested by the appellant would be necessary.
9. The Council have provided a month between demolishing in accordance with the first requirement and removal of material in the second, which is generous.
10. Taking into account all the above, I consider it would be reasonable to extend the period of compliance to be consistent on both requirements.
11. Furthermore, the Council have drawn my attention to their power under the Act to extend the period for compliance with the notice in the event that they are persuaded there is sufficient justification for them to consider it is necessary to do so.
12. For these reasons, I conclude that the appeal under ground (g) should succeed to the extent that the period of compliance with both requirements should be 4 months.

Formal Decision

13. It is directed that the enforcement notice is varied by the deletion of 3 months and the substitution of 4 months as the time for compliance for requirement (i). Subject to the variation, the appeal is dismissed and the enforcement notice is upheld.

AJ Steen

INSPECTOR