



Appeal Decision

Site visit made on 22 May 2025

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 MAY 2025

Appeal Ref: APP/E2340/C/24/3353707

61 Keighley Road, Colne, Lancashire, BB8 0QF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Miss Clare Watson against an enforcement notice issued by Pendle Borough Council.
 - The notice was issued on 5 September 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised erection of a fence to the front of the property.
 - The requirements of the notice are to reduce the height of the fence to a maximum of 1m in height above ground level.
 - The period for compliance with the requirement is two months from the date 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.
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Decision

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.

Preliminary Matters

2. 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 issue below.

Main Issue

3. The appeal made on ground (a) of section 174(2) of the Act is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice. I have considered the reasons for issuing the notice and the main issue is the effect of the development on the character and appearance of the area.

Reasons

4. The appeal property comprises a stone built terraced dwellinghouse within Keighley Road which is a busy thoroughfare. While there is the odd exception, most of the terraced dwellinghouses on this side of the road include dwarf stone walls (some also with low railings) which assimilate well with the stone built dwellinghouses thereby ensuring that there is generally a consistent open frontage and design synergy to the land and properties in the locality. These attributes add positively and distinctively to the character and appearance of the area.

5. The appeal property is positioned between two commercial properties within the terrace, and which have open forecourts. I recognise that there are other properties within the immediate and wider terrace which include relatively high wooden fences. While the evidence indicates that these fences are now immune from enforcement action, owing to the passage of time, I do not find that they make a positive contribution to the character and appearance of the area. They have the effect of materially departing from the otherwise more open frontages associated with the vast majority of other terraced dwellinghouses in this road, and are not suitable in terms of their height, material or design. Moreover, from a visual and numerical point of view, I do not find that these unsympathetic fences have materially changed the prevailing character and appearance of the locality.
6. In the context of the above, and owing to the position and height of the appeal fence, I find that it has unacceptably dominated and enclosed what was otherwise a more open forecourt area when experienced in the street-scene. This harm is compounded because its associated dwarf wall (albeit historic) is finished in white render, and because the fencing is finished in grey plastic panels. When seen together, these are not the kind of materials which reflect the more traditional materials experienced along most parts of Keighley Road.
7. I acknowledge that the notice does not require the removal of all the fence. Indeed, it requires that the fence is reduced in height so that it is no more than one metre in height above ground level. This requirement is reflective of a permitted development fallback position as outlined in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Even accounting for the no more than one metre in height above ground level requirement, the subject fence is higher than this. Hence, it has a more harmful planning impact in relative terms. In other words, I do not find that it would be reasonable to justify the grant of planning permission for the unauthorised development having regard to the requirement of the notice.
8. I acknowledge the reasons why the appellant erected the fence, including the need to ensure that neither her dog nor her two-year-old daughter walk into the road. As part of my site visit, I was able to see that the property had outside amenity space to the rear. There is therefore outside amenity space which could be used in a relatively secure manner for her daughter to play and/or for the dog to exercise outside. I accept, however, that there is always the potential for a dog or a child to escape from the front door of the house and, in this regard, I therefore afford some positive weight to the security afforded from the appeal fence. However, these private matters must be weighed against the very significant harm that has been caused by the fence to the character and appearance of the area. On balance, and given the identified planning harm, I find that there is a need to reduce the fence in height in the public interest.
9. For the above reasons, the development does not accord with the design, character and appearance requirements of policy ENV2 of the adopted Pendle Local Plan Part 1 Core Strategy 2015, and policy CNDP3 of the 2023 Colne Neighbourhood Development Plan. The fence has not resulted in the creation of a high quality, beautiful and sustainable place and, in this regard, there is therefore conflict with paragraph 131 of the 2024 Framework. I conclude that the development does not accord with the development plan for the area taken as a whole and the identified material considerations do not indicate that a decision

should be made other than in accordance with the development plan. Therefore, the ground (a) appeal fails.

Conclusion

10. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

D Hartley

INSPECTOR