
Appeal Decision

Site visit made on 19 June 2025

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2025

Appeal Ref: APP/X3540/C/23/3328402

**Land at Garage Block, North of 2 Chepstow Road, Felixstowe,
Suffolk IP11 9BU**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Peter Mills, on behalf of Kinson Ltd, against an enforcement notice issued by East Suffolk District Council.
 - The enforcement notice was issued on 8 August 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a wall adjacent to a highway, which is over 1m in height (shown in blue on the attached plan) contrary to Schedule 2, Part 2, Class A.1(a)(ii) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended):
 - The requirements of the notice are to:
 1. Permanently reduce the height of the curved sections of wall (identified on photo A) to 1 metre.
 2. Permanently reduce the first 1m section of wall that adjoins the curved section of wall that runs vertically away from Seaton Road to 1 metre in height (identified on photo B).
 - The period for compliance is two months after this notice takes effect.
 - The appeal is proceeding on ground (c) as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended, and supersedes that issued on 25 June 2025.

Formal decision

1. The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. The appeal has been made on one single ground only; ground (c), which is where the appellant contends that the development identified does not require the benefit of express planning permission and, as such, it is beyond planning control. In such circumstances, as there is no ground (a) appeal and no deemed planning application thereby falls to be determined, the development at issue cannot be assessed with regard to merits and/or impacts.
3. Instead, the appeal has to be decided in accordance with planning law; in this instance the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GPDO). The dimensions and positioning of the wall, as built, are therefore paramount and Class A (gates, fences, walls

etc), Part 2, Schedule 2 of the GPDO is the only point of reference. In other words the wall at issue can only be tested against the parameters of the Class A provisos.

4. In the circumstances, the appellant's representations, which include a variety of issues, details of visibility splays and previous appeal decision letters, which have clearly been put forward in an attempt to counter the Council's decision to issue the enforcement notice, are mainly irrelevant.
5. Even the Council's written response, dated 27 August 2020, to a pre-application request from the appellant as to the intended refurbishment of the garage block and the erection of a new boundary wall holds little weight. Although the Council here indicates that the intended wall would be considered permitted development it now says that the opinion was incorrect, and indicates that this was because very limited detail had been provided. In this connection, the letter includes a standard disclaimer paragraph which says that the Council is not bound by the advice given.
6. The appellant says the wall was built in late 2020, and it does not, therefore, enjoy immunity from planning control under the four year bar. Following its erection the Council then saw it expedient to issue an enforcement notice requiring for the wall's modification by way of a reduction in height.
7. Upon appealing the notice's requirements the appellant could have paid the requisite fee and lodged an appeal under ground (a) yet he chose not to. I can only assume that the appellant was so convinced that the wall, as built, fell within the parameters of permitted development that he limited the submission to that of ground (c) only. However, given this, there was no need for the extensive representations made as, for the above reasons, they are irrelevant to the appeal lodged and I cannot therefore take them into account.

The appeal on ground (c)

8. An appeal made under ground (c) claims that those matters alleged have occurred but they do not actually constitute a breach of planning control. In other words, and applicable to this appeal, the appellant contends that the development is permissible by way of the GPDO. Accordingly, it is asserted that no planning permission is required for the wall's lawful retention.
9. Applying the legislation to the development undertaken Class A allows for the erection or alteration of a wall or other means of enclosure providing, amongst other things, the height of the wall erected adjacent to a highway used by vehicular traffic would exceed 1 metre above ground level. If not adjacent to a highway the height of a wall or means of enclosure can be built up to a maximum of 2 metres from ground level.
10. There is no definition of 'adjacent' in the GPDO but the dictionary definition includes 'lying near' or 'adjoining'. The highway comprises both the carriageway and the footway taken together. I observed at my site visit that the wall targeted abuts the back edge of the footway and stands over 1 metre in height above the ground level. Accordingly, the wall, must be considered as adjacent to the highway. The notice's first requirement is therefore legally sound.
11. As regards the second requirement a wall may be positioned back from the edge of the highway and still be 'adjacent' to it provided that the function of

the enclosure is to define the boundary of the property concerned from the highway. As each situation is different there is no common standard for setback distance that may be deduced from cases, and it is therefore a matter of fact and degree in each individual case. A set-back of one metre, as the Council has applied here by way of the enforcement notice's requirements, has often been accepted, nationwide.

12. On the basis of the above it is incontrovertible that the wall is, as a matter of fact, adjacent to the highway. Consequently, because the enclosure is over 1metre in height, it is not permitted development. I must conclude, therefore, that the said operational development is unauthorised and requires the benefit of planning permission.
13. Given the above, the appeal under ground (c) must fail.

Timothy C King

INSPECTOR