



Appeal Decision

No site visit

by M Madge Dip TP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2025

Appeal Ref: APP/N1730/C/24/3343856

Land at 159 Aldershot Road, Church Crookham, Fleet, Hampshire GU52 8JS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr David Parker of Apotek Ltd against an enforcement notice issued by Hart District Council.
 - The notice was issued on 27 March 2024.
 - The breach of planning control as alleged in the notice is “Without planning permission, the erection of a boundary fence at the property, forming an enclosure adjacent to a highway and exceeding one metre in height.”
 - The requirements of the notice are:
 - a. Remove the fence and fence posts, shown in the approximate location edged in red on the attached plan, in its entirety.
 - b. Provide the parking spaces as approved on drawing number MAA/619/PA-09 Revision A.
 - The period for compliance with the requirements is three months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(c), (d) and (f) of the Town and Country Planning Act 1990 (as amended).
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Decision

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

Preliminary Matters

2. My decision rests on the facts of the case, the interpretation of relevant planning law and judicial authority. The burden of proof rests with the appellant. For these reasons, a site visit to the property was not necessary as it would not assist my assessment of the evidence.

The Ground (c) Appeal

3. An appeal on this ground is that the matter alleged does not constitute a breach of planning control. It is for the appellant to show that the erection of a boundary fence at the property, forming an enclosure with the highway and exceeding one metre in height, does not constitute a breach of planning control. The relevant test is the balance of probabilities.
4. The appellant does not dispute that the section of fencing abutting the pavement requires planning permission as it exceeds one metre in height. While the height of the rest of the boundary fence may fall within the permitted development limit, there is no evidence to show that the boundary fence, enclosing the area in front of the dwelling, was not erected as a single building operation. Taking the boundary fence in its entirety, as part of it exceeds the permitted development limitation, the whole of it requires express planning permission. Whether there are similar fences within the vicinity of the site does not change this fact.

5. There is no evidence before me to show that planning permission has been granted for the boundary fence. The boundary fence therefore constitutes a breach of planning control.
6. The Council advises that the erection of any means of enclosure in this location is also in breach of the parking provision condition on application 17/00147/HOU. The notice does not however allege that there has been any breach of condition. As such, compliance with conditions is not a matter before me for consideration.
7. For the reasons given above, the appellant has not shown, on the balance of probabilities, that the boundary fence does not constitute a breach of planning control. The appeal on ground (c) therefore fails.

The Ground (d) Appeal

8. An appeal on this ground is that, at the time the notice was issued, no enforcement action could be taken in respect of the matter alleged. It is therefore for the appellant to show, on the balance of probabilities, that the boundary fence was erected on or before the material date.
9. The Council cite the time within which enforcement action can be taken to be 10 years. However, as the notice alleges operational development has been carried out and the notice was issued before the 25 April 2024, the relevant period for taking action is 4 years. The material date is therefore 27 March 2020.
10. The appellant claims that the *“conversion works on the maisonette were completed...in early 2020 and it was occupied for the first time from 18 March 2020”*. The appellant does not claim that the boundary fence was erected as part of the conversion works. In respect of the ground (f) appeal, the appellant refers to the boundary fencing and subsequent enclosure being provided for the tenants during the Covid lockdown.
11. If the boundary fence was provided during the Covid lockdown, this would suggest it was erected after the property was first occupied and after 23 March 2020, which is the date the first Covid lockdown began. I find it less than likely that the boundary fence would have been erected within a matter of days of the property being occupied and the Covid lockdown coming into effect. In the absence of any specific date of when the boundary fence was erected, the appellant's evidence is imprecise and ambiguous.
12. The Council advises that the boundary fence was first brought to their attention in April 2021. They also advise that Google Street View images show that *“in October 2020 the front parking area was unenclosed and available for parking for the occupants of the dwelling.”* The appellant has not disputed the Council's claim that the boundary fence was not erected by October 2020, and the image provided clearly shows that the boundary fence is not present.
13. From the evidence before me, the boundary fence was erected after October 2020, which is also after the material date. The boundary fence has not therefore been shown to be immune from enforcement action due to the passage of time.
14. For these reasons, the appeal on ground (d) fails.

The Ground (f) Appeal

15. An appeal on this ground is that the steps required to be taken go beyond what is necessary to remedy the breach of planning control or, as the case may be, the injury to amenity. The notice requires the fence and fence posts to be removed and parking spaces to be provided as approved on drawing number MAA/619/PA-09 Revision A. The purpose of the notice is therefore to remedy the breach of planning control.
16. Allowing the retention of any part of the boundary fence would not remedy the breach of planning control. Furthermore, in the absence of a ground (a) appeal, the planning merits of retaining the enclosed garden space while providing two parking spaces for the dwelling to the rear are not before me for consideration. For these reasons, I find step a. does not go beyond what is necessary to remedy the breach of planning control.
17. Drawing number MAA/619/PA-09 Revision A shows the area in front of the dwelling and pharmacy to be open and capable of accommodating three vehicles. The October 2020 Google Street View image shows the frontage to be open, and a vehicle parked upon it. On the balance of probabilities, step b. requires no more than returning the land to its condition before the breach occurred. For this reason, I find it does not go beyond what is necessary to remedy the breach.
18. For these reasons, the appeal on ground (f) fails.

Overall Conclusion

19. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

M Madge

INSPECTOR