



Appeal Decision

Site visit made on 21 October 2025

by **Peter White BA(Hons) MA DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 October 2025

Appeal Ref: APP/V2635/C/23/3326732

Land at Terns, 49 Peddars Way, Holme next the Sea, Norfolk

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the Act").
- The appeal is made by Mr Gordon Raymond Howitt against an enforcement notice ("the Notice") issued by King's Lynn and West Norfolk Borough Council.
- The notice was issued on 24 July 2023.
- The breach of planning control as alleged in the notice is: without planning permission, the erection of a single storey extension to the rear of the existing garage.
- The requirements of the notice are:
 - i) The unauthorised single storey extension to the rear of the existing garage is permanently removed.
 - ii) All resultant materials and waste permanently removed from the Land.
 - iii) The Land restored to its original condition.
- The period for compliance with the requirements is: 2 months.
- 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 ("the DPA").

Summary of decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Application for costs

1. An application for an award of costs has been made by Mr Gordon Howitt against King's Lynn and West Norfolk Borough Council. That application is the subject of a separate decision.

Preliminary Matters

2. The new King's Lynn and West Norfolk Local Plan 2021-2040 ("KLWNLP") was adopted by the Council in March 2025. It replaces the policies referred to in the enforcement notice and statements of case, and I have considered the comments of the parties on this change in coming to my decision.
3. Section 176 of the Act empowers me to correct defects, errors or misdescriptions in the Notice. The 'requirements' in Section 5.(i) are statements in the present tense rather than actions and although there is no ambiguity as to the end result sought, as currently drafted they do not specifically require any action. However, no injustice would occur to either party were I to adjust the grammar to express them as actions without changing their intent, and I will do so in my formal decision.

The appeal on ground (a)/the DPA

4. Appeals on ground (a) are made on the basis that planning permission ought to be granted for the matters stated in the Notice as constituting a breach of planning control.

Background and Main Issue

5. 49 Peddars Way ("the Land") is a bungalow within a short row of single storey detached dwellings on the eastern side of Peddars Way in the village of Holme-next-the-Sea.
6. In 2021 planning permission was obtained for the extension and alteration of the dwelling. In addition to the approved development, the appellant also carried out works to erect a single storey extension at the rear of the garage building on the understanding that those works were 'permitted development'. In fact, they were not, as the Land falls within a National Landscape and the enlarged part of the dwelling extended beyond a wall forming a side elevation of the existing dwellinghouse, and the height of the eaves exceed the height of the eaves of the existing dwelling.
7. A retrospective planning application was made by the appellant, but that was refused and the Notice was issued.
8. The main issue is the effect of the development on the living conditions of occupiers of the neighbouring dwelling, No. 51 Peddars Way ("No.51"), with particular regard to daylight.

Reasons

9. Prior to the development a single storey garage building on the Land stood in part of the gap between No.49 and No.51, in a position near the front of both properties. Behind the garage was an undeveloped space within No.49's garden which provided an element of distance between the two buildings and some vegetation on the boundary.
10. No.51 stands close to the boundary, and windows serving two rooms rely exclusively on light from those north-facing windows. The removal of the boundary vegetation did not require planning permission but opened up the aspect from the windows towards the Land and the development.
11. The development replaces the rear part of the garage with a taller and longer flat roofed structure which extends further back on the plot. By extending further back, it brings the building closer to the boundary opposite the neighbouring windows, leaving a narrow path on each side of the boundary fence. The gap between the properties is further reduced at the eaves by the significant overhang of the roof, with guttering protruding even further. With the development being north of the neighbouring dwelling, there is no loss of direct sunlight into the neighbouring rooms, but there is some loss of daylight.
12. The parties each refer to the 'BRE guidance 25 degree rule' in which the angle of an obstruction is measured from the centre of a window. That method of assessment of diffuse skylight is not a policy requirement of the development plan but was promoted by the Building Research Establishment ("BRE") between 2011

and 2022¹. At that time it advised that where any part of a new development extended beyond a 25 degree angle from the horizontal, a more detailed check was recommended.

13. The evidence before me suggests that the roof overhang and guttering extend beyond the 25 degree zone, but that the vast majority of the development does not. The exceedance using this method of evaluation is therefore marginal.
14. From the western neighbouring room ("the snug") the development extends across the full width of the window. For persons standing at the window the sky is visible only at the top of the window above the development, but the point at which no sky is seen is close to the innermost part of the room. A photograph from a previous sales brochure for No.51 shows there was more direct daylight into this room before the development occurred, and at that time only part of the garage building would have been visible. However, at my site visit I noted the pale colour of the south-facing exterior walls of the development reflect light to a degree, not entirely compensating for the loss of direct daylight, but reducing its effects. Overall, in my judgement, with the evidence before me, the length, height and proximity of the development to this window has reduced the amount of light into this room, but not unacceptably so.
15. From the eastern neighbouring room ("the study") the development is visible in just over half the perspective from the window, but the remaining area east of the development remains undeveloped above ground level, maintaining distance between the properties. The development is a significant presence from this room, but the effect on daylight is less significant. There will have been some reduction in daylight from the north-west, but daylight from the north-east remains. And I note a photograph showing a wooden shed on the Land against the boundary which has been removed, and may have opened up part of the area outside the study window. I also note the existing fence could be extended in height in future to prevent intervisibility between the two properties², but although doing so may reduce some reflected light, it would not be likely to significantly change the availability of direct daylight into this room.
16. Overall, the neighbouring property was built close to the boundary and, prior to the development, two rooms benefitted from daylight over undeveloped space on land at No.49. The length, height and proximity of the development reduces the amount of daylight available to those rooms to a degree, but not severely. The neighbouring property also benefits from other rooms not facing the development and, considering all these matters, the living conditions of its occupiers are not compromised.
17. In conclusion, the development does not harm the living conditions of occupiers of the neighbouring dwelling, No. 51 Peddars Way ("No.51"), with particular regard to daylight, and accords with Policies LP18 and LP21 of the KLWNLP and Policies HNTS 11 and HNTS 17 of the Holme-Next-The-Sea Neighbourhood Plan 2016-2036 (2021) ("NP"). Together these policies require that development that has a significant adverse impact on the amenity of others or is of poor design be refused, and state that proposals will be permitted where they respect the layout and spacing of neighbouring properties, with appropriate separation from boundaries and are not detrimental to the amenity of neighbours in relation to loss of light.

¹ Site layout planning for daylight and sunlight – a guide to good practice 2nd edition, published by the BRE Trust in 2011.

² following the extension and alteration of No.49 with planning permission.

Other Matters

18. The development is similar to the original garage in length and around 2.8m high. It stands close to the boundary between the properties at a distance from the northern wall of No.51 which the parish Council consider to be around 1.8m. Being directly opposite No.51's snug window, it is a substantial feature in views from that room, but partly so on account of the relatively low boundary fence. Views of part of development's side and rear walls are also seen across around half of No.51's study window. In that case, the view is more varied, and although the development is prominent, it is only part of the view from that room. Overall, outlook from the snug is now very limited, and outlook from the study has changed but, considered as a whole, outlook for occupiers of No.51 is not harmful to the living conditions.
19. There is some potential intervisibility at an oblique angle between the rear of the development and No.51's study window, but significantly less than that from the approved window in the rear bedroom. If necessary, privacy could be restored by increasing the height of the boundary fence, by additional boundary treatments, or by the strategic placement of a small plant or object.
20. The rearward extension of the garage reduces the gap between the properties over a greater length than previously but is not closer than the garage and leaves a similar sized gap on each side of the boundary. With the evidence before me the degree of separation from the boundaries itself is not inappropriate.
21. Comments have been made about the accuracy of plans submitted in relation to a retrospective application for planning permission. Although I have been mindful of the need to assess the effect of the development accurately, the matter before me is the development as built, as specified in the enforcement notice, not the application made to the Council.

Conditions

22. Having considered the conditions suggested by the Council, I have had regard to the approach in the National Planning Policy Framework and the Planning Practice Guidance and made minor adjustments without altering their fundamental aims.
23. Having considered the development as constructed, rather than as a proposed development, it is not necessary to specify plans of the development. In any case, although I have seen plans submitted for an application for a certificate of lawfulness which reflect the development constructed to some degree, plans of the development as built have not been provided.
24. The rear extension of the dwelling is not part of the matters constituting the development before me. To require obscure glazing in other parts of the dwelling would not be relevant to the development to be permitted.
25. The parties agree that the cumulative enlargement of the dwelling has now reached 40% of the internal area of the original dwelling. NP Policy HNTS 17 generally permits extensions, outbuildings and annexes up to a 40% increase in internal floor area, but states that where permission is granted consideration will be given to the control of further extensions by reduction or removal of permitted development rights. I have not seen a compelling case for the removal of those rights for the provision of outbuildings, enclosures or pools within the curtilage of

the dwelling. But a condition removing provisions to enlarge the dwelling further without planning permission is necessary to meet the aims of NP Policy HNTS 17.

Conclusion

26. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice as corrected. The enforcement notice will be corrected and quashed.

Decision

27. It is directed that the enforcement notice is corrected by:

In Section 5, the deletion of the words:

- “i) The unauthorised single storey extension to the rear of the existing garage is permanently removed.
- ii) All resultant materials and waste permanently removed from the Land.
- iii) The Land restored to its original condition.”

And their substitution with the words:

- “i) Remove the unauthorised single storey extension at the rear of the existing garage.
- ii) Remove from the Land all resultant materials and waste.
- iii) Restore the Land to its original condition.”

28. Subject to the corrections, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the erection of a single storey extension at the rear of the existing garage at land at Terns, 49 Peddars Way, Holme next the Sea, Norfolk as shown on the plan attached to the notice and subject to the following condition:

- 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development comprising or including the enlargement of the dwellinghouse permitted by virtue of Classes A, B, C or D of Part 1 of Schedule 2 to the Order shall be undertaken.

Peter White

INSPECTOR