
Appeal Decision

by D Boffin BSc (Hons), DipTP, MRTPI, DipBldg Cons (RICS), IHBC

an Inspector appointed by the Secretary of State

Decision date: 30th October 2025

Appeal Ref: APP/X4725/C/24/3347060

Land at 93 Coxley View, Netherton, Wakefield WF4 4NE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the 1990 Act).
 - The appeal is made by Pauline Rimmer against an enforcement notice (EN) issued by Wakefield Metropolitan District Council.
 - The EN was issued on 24 May 2024.
 - The breach of planning control as alleged in the EN is: without planning permission, the erection of a boundary fence over 1 metre in height adjacent to public footpath.
 - The requirement of the EN is: reduce the fence as identified in the approximate position shown by the dark blue line on the attached plan to a maximum height of 1 metre.
 - The period for compliance with the requirement is: 3 months.
 - The appeal is proceeding on the ground set out in section 174(2)(f) of the 1990 Act.
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Decision

1. The appeal is dismissed and the EN is upheld.

Background

2. The appeal property is located on a corner plot at the junction of The Crescent and Coxley View. The fencing extends from the dwelling up to and adjacent to Coxley View and adjoins a detached garage. The EN was issued by the Council for the following reasons; by virtue of its solid, stark appearance and the loss of the landscaped buffer the boundary fence has introduced an incongruous and overbearing structure within the street scene; by virtue of its height and siting and the subsequent loss of the open buffer, the boundary fence has resulted in an obstruction to sight lines at the junction.
3. A retrospective planning application for the boundary fence was refused in 2023 and the subsequent appeal against that refusal was dismissed on 10 January 2024. There is no ground (a) appeal and deemed planning application before me.

The ground (f) appeal

4. An appeal under ground (f) is that the steps required by the EN to be taken, or the activities required by the EN 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.
5. Based on the evidence before me it is more likely than not that the entire development described at section 3 of the EN has been designed and constructed as a single operation. Moreover, the Council decided that a breach of planning control had occurred having regard to the height and siting of the boundary fence. This was based on the limitations imposed in A.1 of Class A (Class A) of Part 2 of

Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) which states that the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed 1 metre above ground level.

6. The appellant argues that only reducing the height of the section of the boundary fence, shown as between the points A & B, would be sufficient to remedy the breach of planning control. I acknowledge that, reducing the height of the boundary fence as required by the EN would mean that it would then comply with the limitations and conditions of Class A of the GPDO. However, the GPDO does not grant retrospective planning permission therefore the fencing would only have planning permission after the requirement of the EN is complied with by virtue of section 173(11) of the 1990 Act, not as permitted development.
7. Furthermore, as the fence appears to have been erected as a single operation it is unlawful in its entirety. As such, only the removal of all the fence attacked by the EN would remedy the breach of planning control. Moreover, reading the EN as a whole it is clear on its face that its purpose is to remedy the injury to amenity by requiring the fence to be reduced in height.
8. The appellant also states that the fence along the highway can be set back and boundary plantings put in place to screen the fence from view. Reference is made to landscaping plans and elevations being provided in due course. However, those plans and elevations are not before me. In any case, where alternative steps have been proposed to alleviate the injury to amenity, the courts have held that when there is no ground (a) appeal, they should not involve having to judge the planning merits of those alternative steps as the reach of an appeal on ground (f) is limited.
9. Considering all of the above, I conclude that the requirement of the EN does not exceed what is necessary to remedy the injury to amenity which has been caused by the breach of planning control.

Conclusion

10. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the EN.

D Boffin

INSPECTOR