



Appeal Decision

Site visit made on 25 November 2025

by Thomas Shields DipURP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 January 2025

Appeal Ref: APP/E0345/C/25/3364677

37 Chiltern Road, Caversham, Reading, RG4 5HR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Ms Liz Cogan against an enforcement notice issued by Reading Borough Council.
 - The notice was issued on 4 April 2025.
 - The breach of planning control as alleged in the notice is without planning permission, erection of a fence adjacent to the highway used by vehicular traffic which exceeds 1.00m in height.
 - The requirements of the notice are:
 - i) Remove the fence shown in Photograph A, from the land in its entirety
 - ii) Remove all materials resulting from the works to a suitable place of disposal.
 - The periods for compliance with the requirements is 1 month.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) 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. It is directed that the requirements in Section 5 of the enforcement notice are varied by:
 - after 5.i. inserting the following words:
“OR

Reduce the height of the fence so that no part of it exceeds 1 metre above ground level”
 - Delete all of 5.ii.
2. Subject to the above variations the appeal succeeds in part on ground (f) and the enforcement notice is upheld.

Appeal on ground (c)

3. The ground of appeal is that the alleged matters do not constitute a breach of planning control. In this legal ground of appeal the burden of proof rests with the appellant and the test of the evidence is made on the balance of probability.
4. A breach of planning control is defined (s171A(1) of the Act) to include the carrying out of development without planning permission, and “development” is defined at s55 of the Act to include “building operations”. This would include the erection of fencing as alleged in the notice. In this regard there is no dispute that the fence, approximately 1.5 metres in height, constitutes “development” as defined.

5. The appellant's case is that the fence benefits from the planning permission ("permitted development") available under Article 3 and Class A, Part 2 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
6. The permitted development in Class A excludes walls or fences over 1m in height if they are adjacent to a highway used by vehicular traffic. The appellant argues that because the fence is set back 40cm from the back edge of the footpath it is not 'adjacent' and is thereby permitted development.
7. The meaning of the word "adjacent" is not defined in the GPDO or in the Act. It is defined in the dictionary as meaning being near or close to, next to, or contiguous. "Contiguous" is defined as sharing a boundary, or boundaries that abut each other physically or continuously. However, case law has established that the meaning of "adjacent" in the context of the GPDO does not mean "contiguous" or "abutting". As such, a fence does not have to adjoin a highway to be "adjacent" to it. It is a matter of judgement, on a fact and degree basis in each case, as to whether a wall or fence defines the boundary of a property as being away from the highway edge, or whether it is "adjacent" to the highway.
8. In this case the fence is intended to enclose the appellant's land to prevent trespass and to provide privacy, and runs parallel to the highway 40cm away from its back edge. There are no intervening structures in the 40cm wide strip.
9. When seen in the context of the property I consider the fence has a clearly obvious functional and physical appearance as purposely forming the boundary of the appellant's land with the highway, and the 40cm strip is insignificant in this regard. Consequently I find, as a matter of fact and degree, that the fence is "adjacent" to the highway. As such, it does not benefit from being permitted development within the GPDO.
10. Since the fence is not "permitted development" and does not benefit from any other planning permission it constitutes a breach of planning control.
11. Consequently, the appeal on ground (c) fails.

Appeal on ground (a)/deemed application for planning permission

Main Issue

12. The main issue is the effect of the fence on the character and appearance of the area.

Reasons

13. The appeal property, along with a few others in the road, has a wider front boundary than most, due in this case to its corner orientation with the neighbouring property at No. 35. The 1.5m fence subject of the appeal has been erected along this elongated section of the front boundary.
14. The prevailing character of Chiltern Road is comprised of traditionally constructed 2 storey residential dwellinghouses with modest front gardens. On both sides of the road the front boundaries of these properties are separated from the vehicular carriageway by a footpath and grass verge interspersed with trees. Constructed front boundaries include fences or walls of various styles of approximately 1 metre

in height or lower, either alone or in combination with tall mature shrubbery or hedgerow providing occupiers with extra privacy. As such, the overall visual perception of the street scene is strongly influenced by gardens with hedgerow or shrubbery boundaries, and/or with relatively low-level constructed walls or fences, along with grass verges with trees.

15. In contrast to the above the appeal fence at 1.5m tall is noticeably prominent due to its height and length and appears incongruent to the prevailing character of the street scene I have described. As such, it results in harm to the character and appearance of the area in conflict with Policy CC7 of the Reading Borough Local Plan (2019) which, amongst other matters, requires development to be of high quality design that maintains and enhances the character and appearance of the area in which it is located.
16. The appellant points to examples of properties with taller fencing or walls, or combinations of both, which I was able to see during my visit to the appeal site and the surrounding area. However, even if those are immune from enforcement action, as suggested, they are few and far between and are not representative of the prevailing character I have described, or of such number that they can realistically be said to form part of a broader mixed character. Boundaries I saw comprising only tall hedgerow or shrubs are not development. Moreover, as natural landscaping features they augment the natural features of the overall street scene and are not analogous with built development. As such, these factors do not add any significant weight in support of allowing the appeal.
17. Reference is made to preventing anti-social behaviour and littering. However, no detailed evidence or records of such events having previously occurred, either at this property or more generally in Chiltern Road, is before me. Moreover, a planted hedgerow or shrubbery boundary, with or without a lower level fence/wall, along with other forms of security, is typically capable of being effective with regard to such concerns. In the absence of detailed evidence as to why this particular property is more vulnerable to anti-social and criminal behaviour than others in Chiltern Road, and why other alternative security measures have been considered and discounted, I attach little weight to this matter in support of allowing the appeal.
18. For these reasons, the conflict I have identified with Policy CC7 of the Local Plan is not outweighed by other material considerations.
19. The appeal on ground (a) therefore fails.

Appeal on ground (f)

20. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
21. The notice seeks the complete removal of the fence. Therefore the purpose of the notice is to remedy the breach of planning control.
22. Lowering the fence to 1m in height, as argued by the appellant, would not result in the reduced fence being permitted development. This is because permitted development rights cannot be applied retrospectively. Nonetheless, a 1m high fence would not result in harm to the character and appearance of the area given

that low level walls and fences form part of the prevailing character and appearance of the area as I described previously.

23. Also I note that once the existing fence is removed, as required by the notice, the appellant could then construct a new 1m tall fence as permitted development in the same position, or even closer to the back edge of the highway by eliminating the 40cm gap. As such, the permitted development rights represent a realistic outcome to take into account.
24. An obvious alternative remedy that could be achieved with less cost and disruption would be to require the reduction in height of the existing fence to no more than 1m in height. In the event that such an alternative requirement was complied with the breach of planning control would be “under-enforced” and a planning permission would be deemed to have been granted for the reduced height fence through the provisions of sections 173(11) and 73A of the Act.
25. Taking account of all these factors I consider that the requirements of the notice should be varied to allow for an additional alternative remedy of reducing the height of the fence to no more than 1 metre.
26. Once any left over materials are removed from the land under requirement 5.ii. they could lawfully be brought back onto the land and used elsewhere on the property. In these particular circumstances I find that requirement 5.ii. exceeds what is necessary in order to remedy the breach of planning control. I will therefore vary the notice by deleting requirement 5.ii.
27. For these reasons the appeal on ground (f) succeeds to this limited extent.

Thomas Shields

INSPECTOR