



Appeal Decision

by John Braithwaite BSc(Arch) BACh(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2026

Appeal Ref: APP/T2215/X/25/3358709

St Fiacre, Green Street Green Road, Lane End, Dartford DA2 7HT

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Michael Olaleye against the decision of Dartford Borough Council.
- The application ref 24/00910/LDC, dated 12 August 2024, was refused by notice dated 30 October 2024.
- The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 (as amended).
- The development for which an LDC is sought is new boundary walls.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Determination of the appeal requires an assessment of the proposed development against the provisions of The Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO). The proposed development is shown on drawings submitted with the application and in photographs in an appeal statement. In these circumstances visiting the site is unnecessary. The appeal has been determined without undertaking a site visit.

3. The application form indicates that it is to be used for a 'Proposed Use or Development' and it therefore relates to applications made under Section 192 of the Act. But the application is retrospective and indicates that the proposal has been started. The application was therefore, in effect, made under Section 191 of the Act and the appeal will be determined on this basis.

4. In his appeal statement the Appellant's Agent repeatedly refers to 'fence', whereas the application relates to walls. All references to 'fence' shall be taken to mean 'wall'.

5. The Agent has referred to Class A of Part 1 of Schedule 2 and to Class EA of Part 1 of Schedule 2. There is no Class EA and Class A of Part 1 of Schedule 2 relates to 'The enlargement, improvement or other alteration of a dwellinghouse'. Both of these references are incorrect. The relevant part of the GPDO, as referred to in the Council's refusal notice, is Class A of Part 2 of Schedule 2 'The erection, construction, maintenance or alteration of a gate, fence, wall or other means of enclosure'.

Reasons

6. Development considered under Class A of Part 2 of Schedule 2 of the GPDO is not permitted if, as set out in section A.1, (a) the height of any wall erected adjacent to a highway would exceed (i) for a school, 2 metres above ground level, provided that any part of a wall more than 1 metre above ground level does not create an obstruction

to the view of persons using the highway; (ii) in any other case, 1 metre above ground level; and (b) the height of any other fence would exceed 2 metres above ground level. St Fiacre is a detached dwelling and not a school so limitation (a)(i) is not relevant, and nor is the concern relating to 'the obstruction to the view of persons using the highway'.

7. The 'existing' boundary walls referred to in the description of the development have been removed and are not relevant to the appeal. The walls that are the subjects of the appeal are either side of an entrance. Lower walls are accepted to be 'adjacent to a highway' and are therefore subject to limitation A.1(a)(ii). Higher walls are set back from the lower walls and are subject to limitation A.1(b). To be development permitted under Class A of Part 2 of Schedule 2 the lower walls must be no more than one metre in height and the higher walls must be no more than two metres in height.

8. The brick walls have projecting piers that add to their height. But a wall must be measured to its highest point above ground level to judge whether it is permitted development. The Agent has stated that "The nearer section to the highway has a variable height of 0.85 m at the lowest point and 1.1 m at the highest point..." and, with regard to the walls set back from the highway, "...though the height of the fence (sic)...would be higher than 2 m the proposal would not create an obstruction to the views of persons...using the highway or likely to cause danger to such persons".

9. As mentioned above, creating an obstruction to the view of persons using the highway relates to schools and is not a relevant matter. The Appellant accepts, on the basis of statements made by his Agent, that neither the lower nor higher walls satisfy the limitations set out in section A.1; the lower walls being higher than one metre and the higher walls being higher than two metres. The walls as constructed do not therefore constitute a development that is permitted under the provisions of Class A of Part 2 of Schedule 2 of the GPDO.

10. For the reasons given above, and on all evidence now available, the Council's refusal to grant an LDC for new boundary walls at St Fiacre, Green Street Green Road, Lane End, Dartford was well-founded and the appeal fails. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector