



Appeal Decision

Site visit made on 17 February 2026

by **D Wilson BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 March 2026

Appeal Ref: APP/E3715/C/24/3356878

The land at 97 McKinnell Crescent, Rugby, Warwickshire CV21 4AU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Evan Lack against an enforcement notice issued by Rugby Borough Council.
 - The notice was issued on 24 October 2024.
 - The breach of planning control as alleged in the notice is Without planning permission the erection of fencing on a boundary exceeding 2 metres in height.
 - The requirements of the notice are:
 - (i) Reduce the fencing along the boundary shown coloured blue on the attached plan to 2 metres from original ground level at the land
 - (ii) Remove all material from the land arising from compliance with (i)
 - The period for compliance with the requirements are: Twenty eight days.
 - 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.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Main Issue

2. The main issue is the effect of the development on the living conditions of neighbouring occupiers with regard to outlook.

Reasons

3. The appeal property relates to a semi-detached bungalow which sits within a modest plot. The garden is small and slopes down to the rear of the property with wooden fencing forming the boundaries. The development relates to the fencing that forms the boundary with the neighbouring dwelling, No 95 McKinnell Crescent where privacy screens have been attached to the top, raising the overall height of the fencing to over 2m.
4. The privacy screens have raised the height of the boundary fencing to various heights due to the change in ground levels, with the highest being closest to the rear of the appeal property. The neighbouring property has constructed a rear extension which sits close to the boundary and as a result of ground level changes, sits at a high level with a large proportion visible.

5. The development results in a means of enclosure that is excessively high and due to the modest size of the gardens would result in an overbearing feature that would be harmful to the outlook of the occupiers of No 95, particularly when viewed from their garden as the overall height would be exacerbated due to the sloping garden.
6. I therefore conclude that the development would harm the living conditions of the occupiers of No 95 with regard to outlook. It would be contrary to Policy SDC1 of the Rugby Borough Council Local Plan 2011-2031 June 2019 and guidance contained within the Rugby Borough Council Local Development Framework Sustainable Design and Construction Supplementary Planning Document February 2012. Amongst other things, these seek to ensure that the living conditions of existing and future neighbouring occupiers are safeguarded.

Other Matters

7. I note that there has been a previous appeal decision¹ in relation to an extension at No 95, however, it would appear that changes have been made to the extension following a subsequent planning application granted by the Council which they considered to be acceptable.
8. Notwithstanding this, I appreciate the appellants continued concerns in relation to privacy and that the Council may not have visited the appeal site during the consideration of this application. However, the neighbouring application is not before me to consider as part of this appeal and there is limited information to suggest that the living conditions of the appellant were not taken into account during the Council's consideration of the application.
9. Notwithstanding the above, I acknowledge the appellant's reasons for installing the fencing which is to protect their privacy. However, this would not outweigh the harm I have identified.
10. I note that the occupiers of No 95 have installed a security camera which appears to be able to face the appellant's garden and property as well as a flood light to the rear. I appreciate the concerns in regard to these; however, they would be covered by different legislation. I also note the suggestion that the occupiers of No 95 have erected fencing that exceeds 2m in height, but this is not a matter before me to consider as part of this appeal.
11. The appellant suggests that the privacy screens are not a permanent solution and that these will be removed once privacy is restored, requesting that the occupiers of No 95 address the privacy concerns at their expense. However, I only have the power to consider the matters which are alleged in the Enforcement Notice, which is the fencing in situ, for which I have found to be harmful.
12. The appellant suggests that the Council are unwilling to accept a planning application for a solution to address the appellant's privacy concerns, the reasons why are not before me but in any case, I can only consider the planning merits of the appeal. Any future application for an alternate scheme could be discussed with the Council directly.

¹ APP/E3715/D/22/3313277

Conclusion

13. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

D Wilson

INSPECTOR