



Appeal Decision

Site visit made on 21 March 2026

by **A U Ghafoor BSc (Hons) MA MRTPI FCMi fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 10 April 2026

Appeal Ref: APP/H2265/C/24/3341380

4 Ruby Walk Kings Hill West Malling ME19 4JT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the “Act”).
- The appeal is made by Dr Ravish Hiryanaiyah Mankragod against an enforcement notice issued by the Tonbridge and Malling Borough Council.
- The enforcement notice was issued on 26 February 2024.
- The breach of planning control as alleged is the erection of a 1.6 m high grey painted timber fencing with piers and entrance gate to the front property¹.
- The requirements of the enforcement notice are to: (1) Remove the 1.6 m high grey painted timber fencing with piers and entrance.
- The period for compliance with the requirements is 1 month.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Act.

Decision

1. It is directed that the enforcement notice be varied by the deletion of the text “one month” in period for compliance, and the substitution thereof by the following text “6 months”. Subject to this variation, the appeal is dismissed, and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Ground (a)

2. The development comprises erection of a 1.6-metre-high grey painted timber fence with piers and entrance gate to the front appeal property adjacent to the highway. The **main issue** is the effect of the development on the character and appearance of the street scene.
3. The appellant maintains that the overall height of the fence and entrance gate is significantly lower than the height of surrounding built forms. However, no. 4 is located within a residential area characterised by open and landscaped frontages. Apart from hedgerows or other landscaped features which, incidentally, may have been part of an approved landscaping scheme, solid structures such as frontage walls or fences are atypical of the street scene. I concur with the Council that the fence, piers and gates, combined with the grey colour, have an adverse visual effect on the quality of the street scene because of the overall height and siting of the structures.
4. An alternative is to consider reducing the height of the fence to 1 m and the appellant argues that the reduction in height would reinforce the subservient presence, both physically and visually, with the local townscape. Additionally, the fallback is a 1 m high structure pursuant to permitted development rights given the fence’s location. Retrospective planning permission has already been refused nevertheless an alternative design solution can be considered as part of this ground of appeal provided the alternative proposition is part of the matters alleged. Clearly,

¹ The allegation and requirements list various images which, for brevity, I have not listed here.

a 1m tall fence is part of the matters alleged. That said, the fence cannot be treated in isolation given the structure includes piers and gates. In addition, the grey colour also has a visually incongruous effect. Even if a lower means of enclosure could be erected under permitted development rights, the structure, as built, has a materially harmful visual effect on the street scene and is plainly unacceptable.

5. Drawing all the above points together, the development causes visual harm to the character and appearance of the street scene, and I attach minimal weight to the alternative or fallback arguments. Contrary to the appellant's submissions and arguments about the economic and social benefits of the unauthorised structures, the development fails to complement nor safeguard the character of the street scene and conflicts with the Council's local plan Policy CP24 Core Strategy 2007, Managing Development and the Environment Development Plan Document 2010 Policy SQ1, and design guidance found in the Framework 2024.

Ground (f)

6. The claim is that the steps required are excessive and that the fence could be reduced to 1 m. I have already considered the merits of reducing the fence in overall height and disagreed with the appellant's arguments. The notice requires the removal of the fence, piers and entrance gate. The steps could have required the reduction in height as an alternative, but it is the entire means of enclosure that is unacceptable.
7. Under permitted development rights the unauthorised fence could be replaced with a 1 m high means of enclosure, but the gates and piers would also need reducing in height. However, the appellant does not explain how the steps required by the notice could be reframed to require the reduction of the fence, piers and gate. Given the considerable amount of building work required, I do not consider the notice's requirements could be varied without introducing significant imprecision.
8. Contrary to the appellant's submissions, the purpose of the requirements is to remedy the breach by restoring the land to its condition before the breach occurred. Partial alteration to the fence would not achieve that purpose. I do not consider any lesser steps, short of full compliance, would remedy the breach and the steps required are proportionate to achieve that objective. Ground (f) fails.

Ground (g)

9. Given the work required by the notice, I consider nine months to be excessive as a period of compliance. A longer period would allow sufficient time to arrange and organise the work without causing significant issues. There is also possibility of addressing the planning difficulties given my findings above. On the circumstances, an extended 6-month period would be reasonable. This is a proportionate response. It would strike a fair balance between the competing interests of the wider public interest and this case. I am content that there would be no violation of the rights under Article 8 of the Human Rights Act. Ground (g) succeeds.

Overall conclusions

10. For all the above reasons and having considered all other matters raised, I conclude that the appeal against the enforcement notice should fail on ground (a) and (f), and planning permission is refused. As I have varied the period of compliance, ground (g) succeeds to that extent.

A U Ghafoor

INSPECTOR