



Appeal Decision

Site visit made on 26 May 2026

by **V Goldberg BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 June 2026

Appeal Ref: APP/X3540/C/24/3351654

37 Foxglove End, Leiston, Suffolk IP16 4UT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (The Act).
 - The appeal is made by Mr John Bushnell against an enforcement notice issued by East Suffolk Council.
 - The notice was issued on 13 August 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission an artificial hedge and supporting structure which is over 2.5m in height attached to the existing outbuilding (shown in blue on the attached plan) contrary to Schedule 2, Part 2, Class E.1 (e) (ii) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The requirements of the notice are to: Permanently remove the artificial hedge and supporting structure from the existing outbuilding.
 - The period for compliance with the requirement is: 2 months after this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(c), (f) of the Town and Country Planning Act 1990 (as amended).
 - **Summary of decision: The appeal is dismissed and the enforcement notice is upheld with a correction and variation in the terms set out below in the Formal Decision.**
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The Enforcement Notice

1. The allegation in the Enforcement Notice (EN) refers to an artificial hedge and supporting structure as being contrary to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). However, under section 173(1)(a) of the Act, the notice is only required to specify the matters which appear to the local planning authority to constitute a breach of planning control. There is no requirement for the allegation to set out, or substantiate, how the development fails to comply with the provisions of the GPDO. The allegation will therefore be corrected by removing reference to the GPDO.
2. The requirement of the Enforcement Notice (EN) is to remove the artificial hedge and its supporting structure from the existing outbuilding. However, the inclusion of the word “permanently” is unnecessary, as the requirement to remove the unauthorised development is sufficient to secure the cessation of the breach. Moreover, section 181(1) of the Act provides that compliance with any of the requirements contained in a notice does not discharge the notice. The requirements of an EN therefore have an enduring effect. Accordingly, the requirement is varied by deleting the word “permanently”.
3. The correction and variation would cause no injustice to either party, as the amendments do not alter the substance of the alleged breach or the requirements of the EN.

The Ground (c) Appeal

4. An appeal on this ground is that the matter alleged, if it has occurred, does not constitute a breach of planning control. It is for the appellant to demonstrate, on the balance of probabilities, that the artificial hedge and its supporting structure do not constitute development, or alternatively, that they benefit from planning permission.
5. The appellant has not demonstrated that the artificial hedge and its supporting structure do not constitute development or benefit from planning permission. However, it is implied that permission is not required on the basis that the hedge and supporting structure are not positioned on the boundary fence but are instead located approximately 5 metres within the site. This suggests that the appellant considers the development to be permitted development.
6. The artificial hedge and supporting structure are attached to the roof and covered area adjoining the existing outbuilding. It adjoins the outbuilding of the neighbouring property and projects above the roofline of the outbuilding within the appeal site, forming a vertical addition that increases the overall height of the structure.
7. Given that the development is attached to the existing outbuilding, to assess if it is permitted development, it is necessary to consider whether it complies with Schedule 2, Part 1, Class E of the GPDO. This provision relates to buildings, incidental structures, and enclosures within the curtilage of a dwellinghouse.
8. Class E.1(ii) specifies that the height of a building, enclosure, or container must not exceed 2.5 metres where it is situated within 2 metres of the boundary of the curtilage of the dwellinghouse. Whilst the hedge and supporting structure are positioned away from the rear boundary, they are attached to the neighbouring outbuilding, which itself extends to the side boundary between the properties. As a result, the development adjoins the shared boundary and is therefore within 2 metres of the boundary of the curtilage of the dwellinghouse.
9. The appellant does not dispute that the hedge and supporting structure exceed 2.5 metres in height. Moreover, given that the development projects significantly above the height of the existing single-storey outbuilding, it cannot reasonably be said to comply with the height limitations set out under Class E. Accordingly, the development does not fall within permitted development tolerances.
10. Consequently, the artificial hedge and supporting structure constitutes development without planning permission. It therefore amounts to a breach of planning control under S171A(1)(a).
11. The appeal on ground (c) therefore fails.

The Ground (f) Appeal

12. An appeal is made on ground (f) on the basis that the steps required by the EN exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity arising from that breach.
13. In this case, the EN does not state which purpose it is intended to serve. However, as it requires the removal of the artificial hedge and its supporting structure, I find that its purpose is to remedy the breach of planning control.

14. Although the appellant suggests that the development could be repositioned or reduced in height, the EN seeks to remedy the breach of planning control. The removal of the artificial hedge and its supporting structure is required to achieve this. I therefore conclude that the steps set out in the EN are proportionate and necessary. As no evidence has been provided to show that lesser measures would achieve the same outcome, the appeal on ground (f) fails.

Conclusion

15. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the EN with a correction and variation.

Formal Decision

16. It is directed that the EN is corrected by:

- *the deletion of the words:*

“Without planning permission an artificial hedge and supporting structure which is over 2.5m in height attached to the existing outbuilding (shown in blue on the attached plan) contrary to Schedule 2, Part 2, Class E.1 (e) (ii) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)”.

And their substitution with the words:

“Without planning permission, the erection of an artificial hedge and supporting structure over 2.5m in height attached to the existing outbuilding (shown in blue on the attached plan)”.

And varied by:

- *the deletion of the word ‘Permanently’ in the requirement 1 of section 5 of the EN*

17. Subject to the correction and variation, the appeal is dismissed, and the enforcement notice is upheld.

V Goldberg

INSPECTOR