



Appeal Decision

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

an Inspector appointed by the Secretary of State

Decision date: 4 May 2026

Appeal Ref: APP/J1535/X/24/3354792

Corner Garth, Nursey Road, Loughton, Essex IG10 4EF

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr and Mrs Laysmith against the decision of Epping Forest District Council.
 - The application Ref EPF/1830/24, dated 5 September 2024, was refused by notice dated 24 October 2024.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The operations for which a certificate of lawful use or development is sought is railings and gates.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. No site visit was necessary to determine this LDC appeal, which turns as it does on matters of lawfulness rather than on planning merits. Accordingly, I have made a Decision on the evidence before me including the submitted plans.

Main Issue

3. The main issue in this appeal is whether the Council's reasons for refusing the LDC were well-founded.

Reasons

4. Article 3(1), Schedule 2, Part 2, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) affords general planning permission for the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.
 5. These permitted development rights are subject to limitations. In particular, development is not permitted (under limitation A.1.) if the height of a residential boundary treatment would be adjacent to a highway (used by vehicular traffic) and over 1m in height. The Council refused the appeal scheme on that basis, and it is common ground that the proposed railings and gates would be up to a maximum of 2m in height.
 6. The point of dispute between the parties, rather, is whether the development would be adjacent to the highway.
-

7. The appeal site is a detached residential property located on a corner plot at the junction of Nursery Road and High View Close. Vehicular traffic can use both Nursery Road and High View Close. A hard surfaced public footpath runs along the front and side of the site between the highway used by motor vehicles and the appeal site.
8. The proposed railings and gates would be set in from the back of the public footpath by 1m, and this 'buffer' zone would be subject to planting. Notwithstanding this short setback and the degree of planting which it might afford, I find as a matter of fact and degree that the railings and gates would serve to clearly define the boundary of the property from the highway and would be perceived to do so.
9. Therefore, I find that the development would be 'adjacent' to the highway. Consequently, due to its height, it would not benefit from general planning permission afforded by the GPDO.
10. The issues of planning merits raised by the appellant (and the existence or not of similar examples of boundary treatments locally), while relevant to a planning application, are not pertinent to this Decision.

Conclusion

11. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Andrew Walker

INSPECTOR