



Appeal Decision

Site visit made on 21 May 2026

by **T C King BA(Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 August 2026

Appeal Ref: APP/W1525/C/24/3347259

Land at The House, East Hanningfield Road, Sandon, Chelmsford, Essex, CM2 7TQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Hany Bassaid against an enforcement notice issued by Chelmsford City Council.
 - The notice was issued on 28 May 2024.
 - The breach of planning control as alleged in the notice is '*Without planning permission, the erection of a gate (shown marked in green at the approximate location on the attached plan)*'.
 - The requirements of the notice are:
 - 1) Remove the gate, shown marked in green at the approximate location on the attached plan.
 - The period for compliance with the requirement in full is within two months from 2 July 2024.
 - The appeal is proceeding on the ground[s] set out in section 174(2)(a) and (c) 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 and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act, as amended.

The appeal on ground (c)

2. An appeal under ground (c) is that the appellant, whilst accepting that the works have taken place, does not accept that this constitutes a breach of planning control as they do not require the benefit of planning permission. In other words, the claim will involve that the works are permitted by way of the Town and Country Planning (General Permitted Development) Order (England) 2015, as amended (GPDO) or, alternatively, they do not constitute development.
3. The enforcement notice targets only the double-gates, and not the gateposts. The posts originally existed to secure the installation of the previous gates, but were retained. Accordingly, the notice requires only for the removal of the new gates themselves.
4. Class A, Part 2 of Schedule 2 to the Town and Country Planning (General Permitted Development)(England) Order 2015 as amended (GPDO) permits the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure subject to certain limitations. Paragraph A.1. thereof states that such development is not permitted by Class A if the height of the enclosure adjacent to a highway used by vehicular traffic would, after carrying out the development, exceed one metre above ground level. In all other cases the height limit is two metres.

5. First, it is necessary to consider the matter of whether the gates can be considered as being adjacent to East Hanningfield Road. There is no definition of the word “adjacent” within the GPDO but it is defined in the dictionary as meaning ‘being near or close to, next to, or contiguous.’ Contiguous is defined in the dictionary as ‘sharing a boundary or touching each other physically, or continuous.’ However, case law shows that the meaning of ‘adjacent’ in the context of the GPDO does not equate to ‘contiguous’ or ‘abutting’. The assessment of what constitutes ‘adjacent’ must therefore amount to a question of fact and degree, to be assessed in relation to the particular circumstances involved.
6. The thrust of case law and appeal decisions on the matter is that gates and their associated structures can be set back from a highway – in certain cases, even some distance back - but still be ‘adjacent’ to it. The assessment should thereby be assessed on a case by case basis. In other words, the facts of each case must be the primary determining factors when reaching a finding on this matter.
7. Here, the gates, the subject of this appeal, are set back off a hard-surfaced access driveway of reasonable depth, to the sides of which is a relatively expansive tree lined grassed verge. This all gives the impression that the gates are of significant distance from the highway, to the point where the two entities have little, meaningful, physical relationship. In the circumstances I am satisfied that the enclosure at issue cannot be reasonably considered as being adjacent to the highway. Accordingly, any enclosure can here be erected up to a height of, but not exceeding, two metres.
8. In this appeal the Council, alongside its representations, has submitted a photograph showing that the central rod divide, between the new double-gates, along with the ornamental metalwork, which is partly affixed to the rod, both rise to a height of some 2.07 metres above ground level. I noted that the gate posts are to a lesser height, of approximately 2 metres, which, I understand, was consistent with the height of the former gates.
9. The appellant says that the Council has taken the gate’s tallest possible measurement, above the solid part of the actual gates. This might be the case, but it does not alter the fact that the height of the enclosure in situ exceeds 2m. As such they do not benefit from the planning permission granted by the GPDO and, as such, constitute a breach of planning control.
10. The appeal on ground (c) therefore fails.

The appeal on ground (a) – the deemed planning application (DPA)

11. On the basis of the Council’s stated reasons for issuing the enforcement notice, and also my site visit observations, the main issue in this appeal is the effect on the character and appearance of the surrounding area.

Reasons

12. The existing entrance gates replaced a pair of wrought-iron, open-work gates which, consistent with the height of the gate posts, were to a height of 2m. The solid metal type, now in situ, which have minimal scallop work atop the solid section, lack the previous gates’ relatively, ornate open design. However, my assessment is not based on a comparison; instead, the new gates installed have to be considered on whether they are, themselves, appropriate in appearance, and

fitting with regard to local character . On this basis I find that policy DM8 of the Chelmsford Local Plan (LP), which is specifically concerned with new buildings and structures in rural areas, is somewhat tenuous. Give this, LP policy S11 titled 'The role of the countryside' is hardly applicable here. Much more pertinent is LP policy DM23 which serves to support the Council's general objective of achieving high quality design in new development.

13. The appellant indicates that the appeal property's gates have an individual character, unlike other examples along East Hanningfield Road, due to the fact the entrance is significantly more recessed from the highway than these others which facilitate vehicular access thereto. This might be the case, but it does not mean that the form and design of the gates, the subject of this appeal, is not an important consideration. In this respect, I note the Council considers that the new gates have created a dominating, dense, and excluding barrier to the property they serve and, in taking an objective view of the development, it is difficult to argue otherwise. Further, to my mind the colour of the installation only exacerbates the incongruity.
14. I acknowledge the appellant's point that the gates perform an important security function. Nonetheless, gates of an alternative design and appearance are readily available and, in the locality there are examples of such which protect the respective properties yet are not visually obtrusive, as is the case here. In other words, the gates installed represent the appellant's choice and which should be of a design which better integrates with the contextual setting. The fact the development requires planning permission, and are thereby controllable under the Council's development management function, only reinforces my findings.
15. Accordingly, I find that the development is harmful to the character and appearance of the surrounding area, and is conflict with the aims and requirements of LP policies DM8, DM23 and, importantly, the development plan, as a whole. It also conflicts with relevant advice in paragraph 135 of the National Planning Policy Framework.
16. 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 deemed application.

T C King

INSPECTOR