



Appeal Decisions

Site visit made on 22 September 2026

by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2026

Appeal A Ref: APP/M1520/C/24/3356036

Appeal B Ref: APP/M1520/C/24/3356037

Land at 141 Rayleigh Road, Thundersley, Benfleet, Essex SS7 3YN

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made by Mr Simon Valadez (Appeal A) and Mrs Brenda Valadez (Appeal B) against an enforcement notice issued by Castle Point Borough Council.
 - The notice was issued on 24 October 2024.
 - The breach of planning control as alleged in the notice is without planning permission a material change of use to the Land (hatched green on the attached plan) from amenity land to residential garden.
 - The requirements of the notice are to: remove the fencing indicated in the approximate position with a blue line, along with its concrete support posts, gravel boards and all materials arising from its dismantling from the site, and cease the use of the Land as residential garden.
 - The period for compliance with the requirements is: 3 months.
 - The appeals are brought on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since the appeals have 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 appeals are 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).

Procedural matters

2. Although two appeals have been made, and they are brought on ground (a), it is only necessary that one proceeds on ground (a) and only one fee has been paid. As such, it is only Appeal A that proceeds on ground (a).

Appeal on ground (a) and the deemed planning application

3. The appeal made on ground (a) of section 174(2) of the Act is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the area.

Reasons

5. The site accommodates a semi-detached dwelling on the corner of Rayleigh Road and Drake Close. Drake Close contains terraced or semi-detached dwellings of uniform scale and design. It is a fairly straight road, with the houses also in a

straight alignment, and the front gardens are generally devoid of any boundary treatment. This allows for long views along the road and provides a strong degree of openness in the street scene, which is a positive characteristic.

6. The alleged change of use of the land hatched green on the plan attached to the notice has been facilitated by the erection of a fence with concrete posts and gravel boards. The majority of the fence is positioned at the back edge of the pavement along Drake Close. From the evidence before me, this is much closer to the pavement than the fence which previously enclosed the garden of No 141. It also extends further forward towards the front of the house and squares off the corner adjacent to 2 Drake Close. A good degree of openness still exists forward of the house and as such the character of the Rayleigh Road street scene is broadly unharmed. However, in the context of the Drake Close street scene, the fence appears as an incongruous feature, harmfully interrupting the characteristic openness here.
7. I understand that before the fence was erected the land was overgrown and attracted fly-tipping. However, whilst I understand the appellant's intentions to tidy up the land, the erection of the fence is a solid, permanent and prominent feature which contrasts harmfully with the character of the area. The privacy provided by the fence could be equally achieved by a fence closer to the house, rather than in this prominent position.
8. The appellant suggests that they own the land hatched green. However, ownership is not a planning matter, and this does not mean the land can be used as residential garden without representing a material change of use.
9. Overall, the development harms the character and appearance of the area. It is contrary to policy EC2 of the Local Plan (1998) which seeks to ensure that any development is appropriate to its setting and should not harm the character of its surroundings.

Conclusion

10. The development fails to accord with the development plan taken as a whole and there are no other considerations that indicate a decision other than in accordance with the development plan. Therefore the appeal on ground (a) fails and the deemed planning application is refused.

Appeals on ground (f)

11. The appeals on ground (f) are made on the basis that the steps required by the notice to be taken, exceed what is necessary to remedy any breach of planning control or to remedy any injury to amenity which has been caused by any such breach.
12. The purpose of the notice is to remedy the breach of planning control by removing the fence and ceasing the use of the land as residential garden. Although the appellants are willing to work with the Council to find a suitable alternative, I have no details of any alternative scheme before me and there is no obvious alternative or lesser step than ceasing the use of the land and the removal of the fence that would achieve the purposes of the notice. As such, the requirements of the notice are not excessive as they seek only to remedy the breach of planning control. Therefore the appeals on ground (f) fail.

Appeals on ground (g)

13. The appeals on ground (g) are made on the basis that the period specified in the notice in accordance with section 173(9) of the Act falls short of what should reasonably be allowed.
14. The appellants state the erection of the fence has depleted their finances and so a longer compliance period is necessary. However whilst I appreciate that there may be a financial burden to removing the fence, no financial details have been provided and I must balance this private matter against the public harm. Overall I consider the compliance period is reasonable and I have no evidence before me to suggest otherwise. Therefore the appeals on ground (g) fail.

Overall Conclusion

15. For the reasons given above, I conclude that the appeals 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).

Andrew Owen

INSPECTOR