



Appeal Decision

Site visit made on 30 September 2026

by R Curnow MA(TCP), BSC(Hons), CMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2026

Appeal Ref: APP/Q1153/C/25/3365085

Land at Kellands Lane, Kellands Lane, Okehampton, Devon, EX20 1FQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Leander Developments Ltd against an enforcement notice issued by West Devon Borough Council.
 - The notice was issued on 25 April 2025.
 - The breach of planning control as alleged in the notice is Construction of a concrete blockwork structure.
 - The requirements of the notice are to: (i) demolish the unauthorised concrete block structure on the land; and (ii) remove the unauthorised concrete blocks and any debris from the land.
 - The period for compliance with the requirements is 7 days.
 - 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) ('the Act').
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

Applications for costs

2. An application for an award of costs was made by West Devon Borough Council. This is the subject of another decision.

Preliminary matters

3. The Council states that the Appellant removed the wall and had complied with the terms of the Notice. Whilst it is the case that the wall was not present in the form that it was when the Notice was issued, the Appellant says that it was subject to criminal damage by a member of the public using a digger. This dislodged parts of the wall; the Appellant removed the others to make it safe. This, I am told, was reported to the police and the Appellant could not reinstate the wall as it would have contravened the terms of a Temporary Stop Notice¹. To my mind, this does not equate to the Appellant company complying with the terms of the Notice.

Reasons

4. The appeal site lies within a recent residential development that forms a significant urban extension to Okehampton. Kellands Lane is a long road that runs through part of this extension, serving a large number of residential properties.
5. The Appellant tells me that the appeal site lies at a point between two areas of residential development that have been built by different volume housebuilders. This has not been countered by the Council, so I take it to be the case

¹ Issued by the Council on 17 April 2025

6. A stretch of Kellands Lane is unfinished. Kerbs have been laid supporting footways, and the line of the carriageway is quite apparent. However, manhole covers stand proud, as the carriageway does not have its final surface coat. The road is in this condition for a distance that I would estimate to be about 20m. Much of this stretch forms the boundary with an undeveloped parcel of land at the heart of the urban extension.
7. A photograph in the Appellant's evidence shows that a wall constructed from large interlocking concrete blocks, akin to children's building blocks, had been constructed across the road. It linked a natural hedge line that runs away on either side of the road. That wall was three blocks high across the carriageway and, due to being set up on an earth bank, was the equivalent of four blocks high on the footways.
8. When I visited the site, that wall was not present. What were in all probability its constituent blocks were spread about the surface of the unfinished stretch of Kellands Lane, including several in a line across the carriageway. They effectively stop most motorised vehicles from running the length of Kelland Lane, but I saw pedestrians and cyclists make their way through. In addition, lengths of metal site fencing had been erected across the carriageway, towards either end of the unfinished stretch of road.

Ground (c)

9. An appeal under Ground (c) is made on the basis that the matters alleged in the Notice do not constitute a breach of planning control. This is a legal ground of appeal where the onus lies with the Appellant to make its case on the balance of probability.
10. From the information before me, the "concrete blockwork structure" referred to in the Notice was a wall that arose from a building operation, as defined in section 56 of the Act.
11. The Appellant company's case here is that the wall that was erected was permitted development. However, it does not set out what permitted development rights it relies on. The Council suggests that this is the permitted development right in Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('GPDO'). That right is "The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure".
12. In his submissions, the Appellant "outlines the criteria published on the Planning Portal", stating that "you do not need planning permission if you intend to" and then providing a list of scenarios where, it says, the works would be permitted development. From what is written, I find that the Council is right in that the Appellant refers to Class A. However, what he has written is part of the text on the Planning Portal. It is the actual text of Class A in the GPDO that has to be used to determine whether the development is PD.
13. After Class A sets out the PD right, Class A.1 sets out those scenarios where development would not be permitted and Class A.2 provides an interpretation of parts of Class A.1.

14. The first question to be answered in assessing whether the wall is PD is to ask whether it is, of itself or with other features or structures, a means of enclosure? If the answer is no, then this ground of appeal fails. The Appellant company, upon which the onus lies to make its case, is silent on this matter. My findings on the matter are, therefore, largely based on what I was able to see at my site visit.
15. It seems most likely that prior to the residential development in the area, the land was formed of fields enclosed by hedgerows. The hedges I refer to that run away from either side of Kellands Lane were, in all probability, parts of these enclosing hedgerows.
16. That part of the hedge running roughly east-northeast ('e-ne') from Kellands Lane forms the boundary between residential properties, whereas that running roughly west-southwest ('w-sw') from it forms a boundary between dwellings and the undeveloped field.
17. As a matter of fact and degree, from what I saw at the site, the wall linking the hedges did not enclose any land – whether taken in isolation, or in association with those hedges. Whilst that hedge to the w-sw provides a means of enclosure to the undeveloped field, the wall is not part of this means of enclosure. The hedge to the e-ne did not appear to enclose land, but had been retained as a linear landscape feature in the residential development.
18. Although not determinative in my findings, I am also aware of the reasons that the Appellant gave for the construction of the wall. At no time is the enclosure of land mentioned. It was erected to stop trespass on land the company owns, between the areas of development undertaken by two other companies. To my mind, this provides support for my finding that the wall does not enclose land.
19. The Appellant makes the point on several occasions that the wall is a temporary feature. The relevance of this, in respect of Class A is not explained. There is nothing in that class to differentiate between what might be termed temporary or permanent development that might lead me to find differently.
20. As it does not enclose land, the wall cannot be held to be PD under Class A. Given this finding, I need not look at the elements of Class A.1.
21. Given the Appellant's reference to the "temporary" nature of the wall, I shall look at the terms of Schedule 2, Part 4, Class A of the GPDO, though the company does not refer to it. This sets out that 'The provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land' is PD.
22. I find that the wall, though purportedly temporary, is not, by reasons of its weight and size, moveable as a matter of fact and degree. Even if I am wrong in this, the permitted development right is dependent on the wall being required for operations on the land or adjacent land. No evidence of this has been put forward by the Appellant.
23. For the reasons given above, the Ground (c) case fails.

Ground (f)

24. An appeal under Ground (f) is that the steps required to be taken or the activities required to cease exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. The purpose of the Notice is clear, it is to remedy the breach of planning control.
25. The Appellant does not explain why the steps required by the Notice are excessive. In the appeal form, it says "The structure installed was temporary in its nature, for the reason to prevent trespass on the property. The temporary structure should not have been served an enforcement notice, on the grounds of design, and should be permitted to be reinstated". This reads as an attempt to gain planning permission to retain the wall. In the absence of a Ground (a) appeal and deemed planning application, I cannot determine that the wall should remain.
26. The Appellant has failed to show how the requirements of the Notice are excessive, and I cannot see an obvious alternative to them.
27. For the above reasons, the Ground (f) case fails.

Other matters

Human Rights

28. The Appellant says that the issuing of the Notice was a politically motivated act, rather than being expedient in planning terms. Its issue was contrary to its human rights and in this regard Articles 1, 8 and 14 of the First Protocol of the Human Rights Act 1998 are cited. In essence, these are: that everyone is entitled to the peaceful enjoyment of his possessions, and shall not be deprived of these except in the public interest and subject to the conditions provided for by law and by the general principles of international law; the right to respect for private and family life; and a prohibition of discrimination, respectively.
29. This is not the forum for assessing these matters, as, put simply, Grounds (c) and (f) simply do not allow for consideration of the effect of the decision on individuals and their rights. If the company feels that it has been discriminated against, this can be addressed under other legislation.
30. The reason behind the erection of the wall, to prevent trespass and accord with insurance requirements, cannot be used to justify the Ground (c) appeal. These are 'planning merit' arguments that I cannot take into account absent a Ground (a) appeal.

Conclusion

31. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

R Curnow

INSPECTOR