

Report to Planning Committee

Enforcement Reference: 0055/2015

Location: 16 Sheringham Close, Arnold

Breach of Planning Control: Erection of unauthorised fence which 2.4m high adjacent to the rear boundary without planning permission.

Site Description

Number 16 Sheringham Close is a two storey detached dwelling located on the north eastern side of Sheringham Close, which is a residential area in Arnold. The property is raised slightly above highway level.

Relevant Planning History

A complaint was initially received in June 2015 relating to the erection of a fence that is 2.2m high on the complainant's side and 2.4m on the occupier's. The fence is used to support a climber growing in the occupier's garden.

No planning application was submitted before the fence was erected and no retrospective application has been submitted either.

Breach of Planning Control

An initial investigation was carried out in August 2015, including an inspection of the site, when it was noted that the fence in question was measured and found to be 2.4m on the occupier's side and 2.2m on the complainant's side. The fence consists of timber supports, which are within the occupier's garden and a section of fence that is 2.4m above the boundary. Apart from the fence supports being concreted the fence is free of the adjacent boundary treatment. The differences in heights of the fence are due to the difference in levels between the two properties.

No part of the fence is visible in the public domain or affected by the highway given it forms part of the rear boundary between two properties.

There are other boundary structures that exist in the rear garden, these are no more than 2m in height and are therefore 'permitted development'.

Planning Permission is required as the height of the fence exceeds 2 metres and therefore does not benefit from 'permitted development' rights under Class A of Part

2 (minor operations) to Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015.

The Council has written to the owners of the property on three separate occasions, requesting that either they apply retrospectively for planning permission to retain the fence, or reduce the height so that it does not exceed 2 metre. No application has been received.

A site inspection took place in February 2016 and the occupier has advised that no retrospective application will be submitted.

Planning Considerations

Although the development has occurred without planning permission and is therefore unauthorised, local planning authorities are required to consider government guidance when deciding whether to take planning enforcement action. Government guidance in the National Planning Policy Framework (NPPF) (paragraph 207), published on 27 March 2012, states that although effective planning enforcement is important as a means of maintaining public confidence in the planning system, ultimately enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.

The main planning issues involved with this application are whether the proposed development would have a material impact on the character and appearance of the site and whether it would have an adverse impact on the amenities of the neighbouring properties.

In my opinion the fence is visually acceptable and does not result in a significant impact on neighbouring residential properties and has no undue overbearing or overshadowing impact. Given that the permitted development fall-back position is a fence of 2 metres in height, it is considered that the additional 200mm in height when measured from the neighbour's garden does not have a materially different impact on neighbouring amenities.

Should an application have been submitted to retain the structure it is highly likely that a favourable recommendation would have been made and planning permission would have been granted.

The Planning Practice Guidance advises that enforcement action should be proportionate to the breach of planning control. Local planning authorities should usually avoid taking formal enforcement action where the development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development.

Taking this into account it is therefore the officer's opinion that no further action should be taken in relation to this matter. This opinion has been formed on an assessment of the impact of the development on both the amenity of the area and neighbouring properties.

Recommendation:

That the Director be authorised to close the enforcement investigation without taking enforcement action in relation to the Town and Country Planning Act 1990.