

Alleged Unauthorised Development

Borough Green

05/00001/UNAWKS

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Borough Green And
Long Mill

Location: 28 Fairfield Road Borough Green Sevenoaks Kent TN15 8DP

1. Purpose of Report:

- 1.1 To report an alleged unauthorised development being the construction of walls, brick piers, wrought iron railings and erection of gates along the frontage and to the North of 28 Fairfield Road Borough Green.

2. The Site:

- 2.1 The site lies within the built confines of Borough Green.

3. History:

- 3.1 TM/02/2045/FL Approved 08.12.2002
Two storey and single storey rear extension and front porch.

4. Alleged Unauthorised Development:

- 4.1 The unauthorised erection of a boundary brick wall with wrought iron fencing, brick piers and wrought iron gates that exceed 1.0m in height adjacent to the highway used by vehicular traffic

5. Determining Issues:

- 5.1 In January 2005 it became apparent that the owners of the above site had erected a boundary wall and gates in excess of 1.0m in height to the front of the property and to the North of the property. A letter was sent to the property owners requesting that they submit an application to regularise the situation.
- 5.2 A reminder letter was sent in February 2005 however no planning application has been forthcoming.
- 5.3 The unauthorised front boundary treatment consists of a brick wall with railings above, brick piers and gates. The approximate height of the structure is 2m.
- 5.4 The property is located within a residential estate with an open fronted character. Properties have reasonably sized front gardens characterised by low level boundary treatments, such as picket fencing, hedging and some have low level boundary walls.

- 5.5 The unauthorised development at No. 28 exceeds the provisions of Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, which allows for 1m high front boundary treatments to be erected without the need for approval by the LPA.
- 5.6 The unauthorised works are a hazard to highway safety because of their height, which means that vehicles emerging from the site can neither see, nor be seen and as such, the development has raised strong highways objections.
- 5.7 Kent Highway Services have been consulted on this and gave the following comment. No wall/fence adjacent to the highway should be constructed without consent above 1.05 metres above the adjacent carriageway. Furthermore there would be a requirement for pedestrian visibility splays on each side of a vehicular access 2m x 2m x 45 degree, and within that area the height should not exceed 0.6 metres. Given that this is likely to be an existing access there could be an argument that there could be a hedge in the place of the wall/piers. Current guidance could require the gates to be set back 5.0 metres from the back edge of the highway, and the gates should only open inwards and that any hard standing should be of sufficient length to accommodate a standard family car. Surface water should not discharge onto the public highway.
- 5.8 The increased height, to the extent mentioned above, has resulted in a development wholly out of character with its surroundings and has resulted in a detrimental impact upon the visual amenity of the area and the streetscene. The proposal is therefore contrary to policy P4/11 of the TMBLP 1998.
- 5.9 An application was received for similar works at another property in the road. The details on this application were for a 5ft brick wall and iron gates at the frontage. This application was refused on a number of issues including strong views from Kent Highway Services, who had concerns about the visibility from the proposed access due to the proposed height and the fact that brick walls would reduce visibility further.
- 5.10 It is clear from the site inspection that the breach of planning control at No. 28 is still occurring. The owner of the property has neither applied for retrospective planning permission nor sought to rectify the breach. I feel it is expedient to take enforcement action to seek the reduction in height to 1m of the unauthorised walls and brick piers and the wrought iron railings and wrought iron gates as it is out of keeping with the locality, and as such would be harmful to the visual amenity of the area. Such a reduction in height would also help to overcome some of the highway objections. However, it should be remembered that walls up to 1m in height would be permitted development in this location.

6. Recommendation:

An Enforcement Notice **be issued** as set out below and copies **be served** on all interested parties.

The Notice to take effect not less than 28 days from the date of service, subject to:

- The concurrence of the Chief Solicitor, he being authorised to amend the wording of the Enforcement Notice as may be necessary.
- In the event of an appeal against the Notice the Secretary of State and the appellant to be advised that the Local Planning Authority is not prepared to grant planning permission for the development the subject of the Enforcement Notice.

Breach Of Planning Control Alleged

Without planning permission the unauthorised construction of brick walls, brick piers, wrought iron railings and wrought iron gates exceeding 1m in height.

Reasons For Issuing The Notice

It appears to the Council that the above breach of planning control has occurred within the last 4 years.

The development is not permitted under the Town and Country Planning (General Permitted Development) Order 1995 as it is over 1m in height. The current development is contrary to Policy P4/11 of the Tonbridge & Malling Borough Local Plan as it is seen to harm the character and quality to the local environment. Because of their height, the structures also unacceptably reduce visibility between drivers of vehicles emerging from the site and those using the public highway. Reducing the height would reduce the highway safety concerns and mitigate the visually intrusive nature of the development.

The reasons for taking enforcement action are to remedy the injury to amenity and detriment to highway safety caused by the unauthorised development.

Requirement

To reduce walls including railings, brick piers and wrought iron gates to a height no higher than 1.0m.

Period For Compliance

1 calendar month from the date the Notice takes effect.

6.2 Further Proceedings

In the event of the Enforcement Notice not being complied with and subject to satisfactory evidence, the Chief Solicitor **be authorised** to commence any proceedings which may be necessary under Section 179 of the Town and Country Planning Act 1990 (as amended) to secure compliance with the Enforcement Notice.

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