



Planning Inspectorate
Department of the Environment

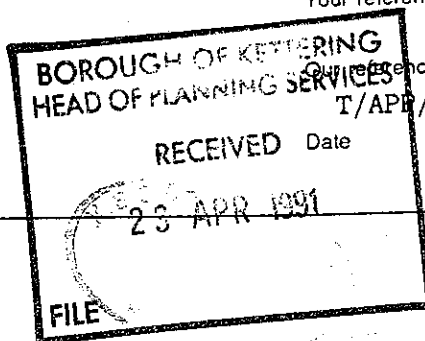
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Your reference

90/6113

EN148

T/APP/C/90/L2820/7/P6 and
L2820/A/90/166215/P6

-9 APR 91

Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTIONS 174 AND 78 AND SCHEDULE 6
APPEALS BY MR R EDGAR
LAND ADJACENT TO SYCAMORE HOUSE, WARKTON SPINNEY, WARKTON LANE, KETTERING

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeals. These appeals are against an enforcement notice issued by the Administrative Council of the Borough of Kettering and against a refusal of planning permission by that Council concerning the above-mentioned land. I have considered the written representations made by you and by the Council and also those made by interested persons and those made by such persons to the Council. I inspected the site and surroundings on 12 March 1991.

2. a. The date of the notice is 2 August 1990.

b. The breach of planning control alleged in the notice is the unauthorised carrying out of operational development on the premises, namely the unauthorised erection of fencing over one metre high abutting a highway on the said land.

c. The requirements of the notice are the removal from the said land of all unauthorised fencing.

d. The period for compliance with the notice is 2 months.

e. The appeal was made on the ground set out in Section 174(2)(a) of the 1990 Act.

3. The development for which planning permission was refused is boundary fencing to highway with laurel hedge screening and post and rail fence to service road around garden.

4. The evidence is that the fencing to which both the enforcement notice and the refusal of planning permission relate was erected in the late summer of 1989. Since the application for planning permission is dated 8 January 1990, it is clear that the application is for retention of the fencing, and I am determining the Section 78 appeal accordingly.

5. It appears to me from the representations and my inspection that the main issue in these appeals is the effect which the fencing, if retained, would have on the area's character and appearance.

100%



RECYCLED PAPER

6. The site, on the west side of Warkton Lane and the east side of a residential access road, contains a crescent-shaped, landscaped garden. The garden is enclosed on the Warkton Lane side by a close-boarded fence approximately 1.8 m high with trelliswork on top, and on the access road side by a post and rail fence some 1.5 m high with gates in the northern section; a laurel hedge has been planted on the highway side of the close-boarded fence. Across the access road to the site's north, west and south, and across Warkton Lane to its east, are detached houses, the northernmost one in the crescent being Sycamore House.

7. I note the representations concerning the history of the site, including the original intention of it being a landscaped feature and the dismissal on 20 January 1989 of an appeal against refusal to permit a bungalow on it. The appeal decision letter refers to the likelihood of the residents of the recently built properties to the west maintaining the site as amenity land. Your client, who lives at Sycamore House, understands that the builder discussed with purchasers of the properties the possibility of the site being sold to them on the basis of shared responsibility, but that some disagreed with the proposal. It is stated that your client purchased the site in 1989. On 13 March 1990 planning permission subject to conditions was granted for a change of use of the site, including landscaping of amenity area, to private garden.

8. A landscaping scheme has been carried out, and the Council have not disputed your claim that the scheme was approved. The scheme, incorporating the retention of existing trees, the planting of a variety of other items, and the provision of 3 ponds, appears to me to have resulted in a pleasing feature which can reasonably be expected to become more attractive as the new planting matures.

9. I take the view that the post and rail fence, whilst representing a reasonable means of enclosure for the private garden from the access road, permits the site to retain a distinct open and spacious character for occupiers of houses across the road to the west. With regard to the Warkton Lane frontage, I noted on my inspection the depression containing the fence, the adjacent laurel hedge, the wide grass verge between the fence and the carriageway, and the existence of similar frontage fencing across the access road to the fence's north and south. Whilst I accept that the fence prevents uninterrupted views across the site, planning permission has been granted for use of the land as private garden, and I am of the opinion that the fence affords reasonable privacy for users of the garden and reasonable protection against trespass, vandalism and the deposit of rubbish. It seems to me likely that the laurel hedge when mature would in any case obscure or prevent views across the site. Although nearby residents to the site's west have expressed differing views, I note the support for retention of the Warkton Lane boundary fence expressed by all the nearby householders on the other side of that road.

10. Whilst mindful of and not dissenting from the views given in the appeal decision letter dated 20 January 1989, I conclude that in the circumstances now existing retention of the fencing would not be damaging to the area's character and appearance.

11. Having regard to the likely growth of natural vegetation on or adjacent to the site's boundaries in the next few years and to the continuing need for the garden to have an adequate means of enclosure, I am not convinced of the need to impose a time limiting condition as suggested by the Council. After considering all other matters raised, I conclude that the presumption in favour of allowing applications for development should prevail in this case, and that planning permission ought to be granted for retention of the fencing. The appeal against the enforcement notice on

8 m high with
some 1.5 m
f a residential
garden is enclosed

ground (a) and the Section 78 appeal succeed, and I propose to grant planning permission on the application deemed to have been made under Section 177(5) of the Act.

FORMAL DECISIONS

The appeal against the enforcement notice, reference T/APP/C/90/L2820/7

12. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal, direct that the notice be quashed and grant planning permission on the application deemed to have been made under Section 177(5) of the Act for the retention of fencing over one metre high abutting a highway on land adjacent to Sycamore House, Warkton Spinney, Warkton Lane, Kettering.

The Section 78 appeal, reference T/APP/L2820/A/90/166215

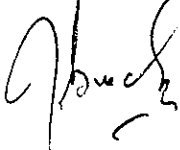
13. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for the retention of boundary fencing to highway with laurel hedge screening and post and rail fence to service road around garden on land at Sycamore House, Warkton Lane, Kettering, in accordance with the terms of the application (No KE/90/0113) dated 8 January 1990 and the plans submitted therewith.

14. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

RIGHT OF APPEAL AGAINST DECISIONS

15. This letter is issued as the determination of the appeals before me. Particulars of the rights of appeal against the decisions to the High Court are enclosed for those concerned.

I am Sir
Your obedient Servant



J BROCK MA(Cantab)
Inspector

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