



SHEFFIELD CITY COUNCIL Planning & Highways Committee Report

Report of: Director of Development Services

Date: 26 April 2016

Subject: Enforcement Report
25 Moor Valley S20 5BB

Author of Report: Fiona Sinclair

Summary: To inform committee members of a breach of the Planning Regulations and to make recommendations on any further action required.

Reasons for Recommendations:

To remedy the breach of Planning Control

Recommendations:

That the Director of Development Services or Head of Planning be authorised to take any appropriate action including, if necessary, enforcement action and the institution of legal proceedings to secure the removal of the unauthorised section of fence, in front of the dwelling-house at 25 Moor Valley S20 5BB

The Head of Planning is delegated to vary the action authorised in order to achieve the objectives hereby confirmed, including taking action to resolve any associated breaches of planning control

Background Papers:

Category of Report: OPEN

ENFORCEMENT REPORT

ERECTION OF AN UNAUTHORISED FENCE ADJACENT TO THE
HIGHWAY AT 25 MOOR VALLEY S20 5BB

1. PURPOSE OF REPORT

- 1.1 To inform committee members of a breach of the Planning Regulations and to make recommendations on any further action required.

2. BACKGROUND

- 2.1 25 Moor Valley is a traditionally built two storey, end terrace, dwelling-house which is located within a residential area of the city.
- 2.2 A complaint, from a member of the public, was received, on 16 April 2015 concerning the erection of a 2m high fence along the front boundary of the property, which is also adjacent to a public highway.
- 2.3 Correspondence was entered into with the owner, on 28 May 2015, explaining that because the height, of the fence, is more than 1m above ground level, and it is adjacent to a public highway, it is not considered to be permitted development and therefore would have required Planning Permission.
- 2.4 The owner, responded to this letter, and initially agreed that the fence would be removed. However, he elected not to do so and so on, 15 September 2015, a Section 330 information Notice was served by the Local Planning Authority.
- 2.5 To date no attempt has been made, by the owner to remove the fence, or to reduce it to a more acceptable height.

3 PLANNING HISTORY

- 3.1 In 2014 an application for planning permission was submitted for a two-storey side extension and new vehicular access; which included the erection of a 2m high fence along the boundary between the side garden and the public highway (14/01278/FUL).

- 3.2 The approved fence is to be set back approximately 2.5m, from the highway and runs in line with the property's front elevation (see diagram 1 below).
- 3.3 On 13 February 2014, following a meeting on site between the owner and the Planning case officer, correspondence was sent to his agent requesting details of the boundary treatment and advising that if the owner wished to keep the fence he had erected, it would need to be moved back in line with the front of the dwelling-house as illustrated on Diagram 1 below. The current unauthorised position of the fence is shown on Diagram 2, which includes fencing directly in front of the dwelling-house, rather than just screening the side garden area.

Diagram 1 (Extract from the approved plans)

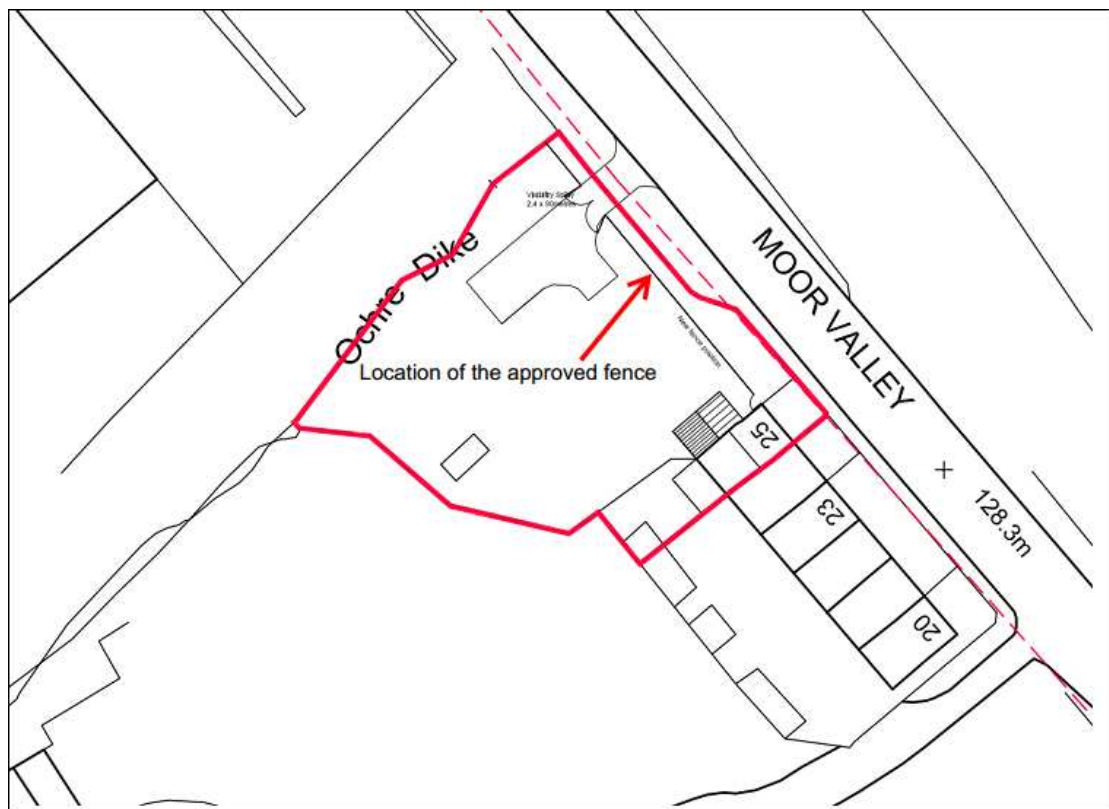
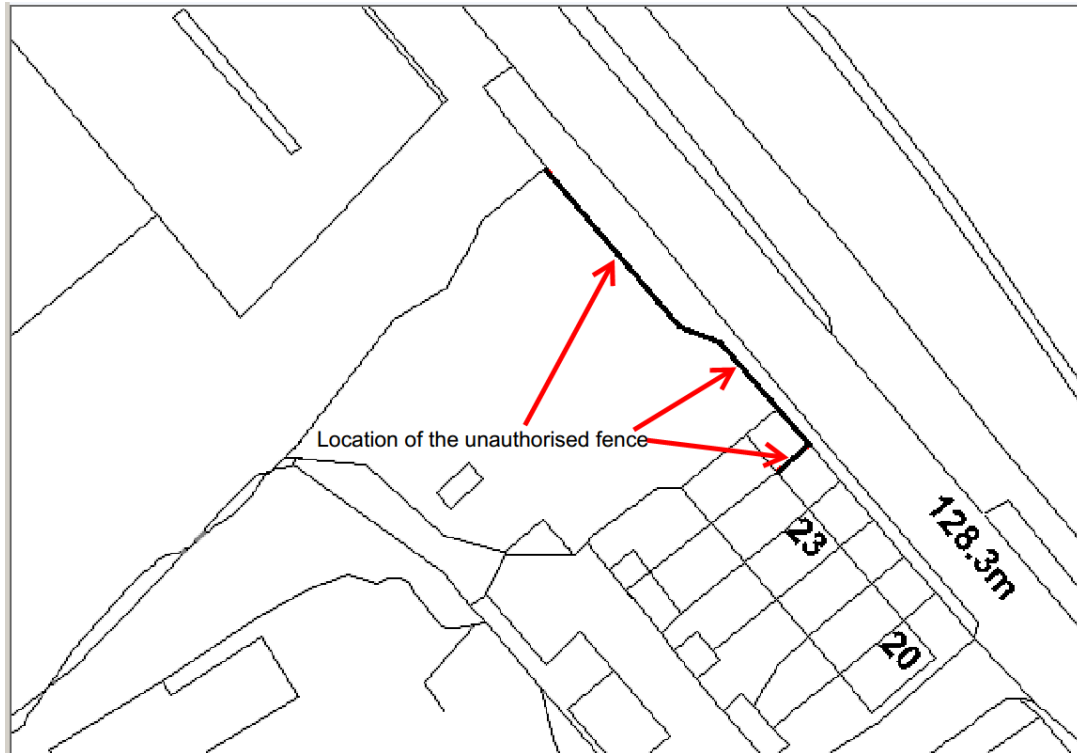


Diagram 2 showing the line of the unauthorised fence



4 ASSESSMENT OF BREACH OF CONTROL

4.1 The property is located within a housing area, as defined within the UDP.

4.2 The fence is 2m high and has been erected adjacent to the highway: and is, therefore, not considered to be permitted development under Part 2 Class A (Minor Operations) of the Town and Country Planning (General Permitted Development Order) 2015 which states that:

“Development is not permitted under Class A if the height of a fence, wall or means of enclosure erected or constructed, adjacent to a highway, used, by vehicular traffic, would, after carrying out the development, exceed one metre above ground level.”

4.3 There are no similar fences in the immediate area, with the boundary treatments to the other properties in the same terrace, being a mixture of low masonry walls and hedges. Located as it is, adjacent a public highway and in front of the dwelling-house, it is prominent and visually intrusive, failing to respect the local character in terms of boundary treatment. Therefore, the fence is considered to have a detrimental effect on the visual amenities of the street scene, and contrary to policies BE5 (h) and H14 (a) of the UDP.

- 4.4 The photographs, below, demonstrate that, where the fence is situated in front of the dwelling-house, it is visually obtrusive and does not match the boundary treatments to the remainder of the properties in the terrace. The photograph also clearly illustrates the low stone boundary wall still exists in front of the part of the fence that has been erected around the front garden of the dwelling.

Photographs 1&2

Fence as viewed from the highway





Photograph 3 showing the boundary treatments of the other properties in the terrace.



5. REPRESENTATIONS.

- 5.1 A complaint, from a member of the public, was received, on 16 April 2015

6. ASSESSMENT OF ENFORCEMENT OPTIONS

- 6.1 Section 171C of the Town and Country Planning Act provides for the service of a Planning Contravention Notice. The notice requires information about the breach of planning control and property ownership. It also gives an opportunity for the recipient to meet with officers to make representations. Such a meeting could be used to encourage regularisation by retrospective application and/or discussions about possible remedies where harm has resulted from the breach. In this case it is clear that the canopy is in breach of planning control and as such it is not considered that the serving of a PCN would be of any value.

- 6.2 Section 172 of the Act provides for the service of an enforcement notice (EN). In this case such a notice would require the removal of the fence to make good the harm caused by the unauthorised development. There is a right to appeal to the Planning Inspectorate, against the service of an Enforcement Notice. However, it is considered that the Council would be able to successfully defend any such appeal, particularly given that planning permission exists for an acceptable alternative location for the fence.

7 EQUAL OPPORTUNITIES

- 7.1 There are no equal opportunity issues arising from the recommendations in this report.

8 FINANCIAL IMPLICATIONS

- 8.1 There are no additional financial implications expected as a result of this report. If an appeal is made against the enforcement notice, costs can be awarded against the Council if it is shown that they have behaved “unreasonably” in the appeal process, it is uncommon that this will happen. However, in the unlikely event compensation is paid, it would be met from the planning revenue budget.

9.0 RECOMMENDATIONS

- 9.1 That the Director of Development Services or Head of Planning be authorised to take any appropriate action including, if necessary, enforcement action and the institution of legal proceedings to secure the removal of the unauthorised fence at 25 Moor Valley.

9.2 The Head of Planning is delegated to vary the action authorised in order to achieve the objectives hereby confirmed, including taking action to resolve any associated breaches of planning control.

Site Plan

