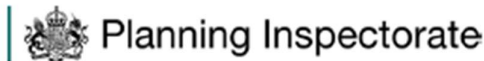


PLANNING COMMITTEE – 15th January 2026**PART 5**

Report of the Head of Planning

PART 5

Decisions by County Council and Secretary of State, reported for information



Appeal Decisions

Site visit made on 28 October 2025

by Thomas Shields DipURP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2025

Appeal A: APP/V2255/C/23/3323758**Appeal B: APP/V2255/C/23/3323759****Cripps Farm, Plough Road, Eastchurch, ME12 4JH**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeals are made by Miss Sarah Whitlock (Appeal A) and David Buckley (Appeal B) against an enforcement notice issued by Swale Borough Council.
- The notice was issued on 23 May 2023.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a brick boundary wall fronting the highway being over one metre in height, plus the raising of land levels including an area of hardstanding.
- The requirements of the notice are:
 - i. Demolish the boundary wall shown in its approximate position shaded black and edged red on the attached plan, including demolishing the lower retaining section of the wall.
 - ii. Excavate and remove all materials used to raise the land levels for a distance of 1.75 metres back from the dotted line as shown on the existing plans submitted under planning application 19/505311 specifically drawing no. DC/511 Existing (dated July 2019). The plans are attached to this notice.
 - iii. Excavate and remove the area of hardstanding located behind the boundary wall for a distance of 1.75 metres back from the dotted line as shown on the existing plans submitted under planning application 19/505311 specifically drawing no. DC/511 Existing (dated July 2019). The plans are attached to this notice.
 - iv. Reinstall the former grass verge (in place of the wall identified in (i) above) including reinstating the land levels to a level consistent with the existing levels immediately to the east and to the west of the wall. Cover with topsoil and plant with grass seed.
 - v. Remove from the Land any resultant bricks, hardcore and any other form of waste or materials arising from compliance with steps (i) to (iv) above.
- The period for compliance with the requirements is 3 months.
- Appeal A is proceeding on the grounds set out in section 174(2)(a) and (b) of the Town and Country Planning Act 1990 (as amended). Appeal B proceeds on ground (b) only. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

DECISION

1. The appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal on ground (b)

2. An appeal on this ground argues that the matters stated in the notice have not occurred as a matter of fact.
3. In this legal ground of appeal the Planning Practice Guidance (PPG) follows earlier Court judgments. As such, the onus of proof falls to an appellant, with the test of the evidence being on the balance of probabilities. Also, an appellant's evidence should not be rejected simply because it is not corroborated. If there is no

evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.

4. No evidence is provided to show that any of the matters listed at Section 3 of the notice had not occurred. The appellants state the wall subject of the notice is a replacement of an earlier and broken retaining brick wall. While this is a relevant consideration for the purposes of ground (a), this appeal on ground (b) cannot succeed since the matters alleged had clearly occurred by the time the notice was issued.
5. The appeal on ground (b) therefore fails.

Appeal on ground (a)/deemed application for planning permission

6. The appeal on this ground is that planning permission should be granted for the development.
7. Having regard to the Council's reasons for issuing the notice, the main issue is the effect of the development on the character and appearance of the area.
8. An appeal to retain the development was dismissed on 13 February 2023 (Ref: APP/V2255/D/22/3307399), following an earlier refusal of permission by the Council. Since then, other than laurel hedging planted against the exterior of the wall along its length, there has been no alteration to the development. There has also been no change to the Council's Development Plan policies or any significant change to national planning policy. The 2023 appeal Decision is therefore a material consideration in determining this current appeal.
9. I concur with the description of the appeal site and of the general character and appearance of the wider area as set out at paragraphs 3-6 of the 2023 appeal Decision, and also with paragraph 7 with regard to the dominant appearance of the front wall being at odds with the general nature of boundary treatments in the area.
10. I acknowledge that since the laurel hedging has been planted it has gone some way to softening the appearance of the formerly bare brick, but it nonetheless remains overall as a visually dominant structure, particularly so at its highest point when viewed approaching from the west. Moreover, such planting cannot be relied upon as a longer term mitigating factor, and no other planning conditions would make the development acceptable in planning terms.
11. I appreciate the desire to provide safety and to prevent animal stock from escape, however other bespoke forms of livestock containment are available. The appellant also refers to a builder's advice in carrying out the development. However, there is no qualified technical information before me to show that raising of land levels and construction of the boundary wall, as carried out, was the only viable way of providing a suitable frontage area and boundary treatment to the property.
12. To conclude, the development results in an unacceptable level of harm to the character and appearance of the street scene and to the wider area contrary to policies CP4, ST3, and DM14 of the Swale borough Local Plan (2017) which, taken together, seek to ensure that development should reflect the positive characteristics and features of the locality, have an appearance and height that are appropriate to the location, promote and reinforce local distinctiveness and protect the intrinsic beauty of the countryside.

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13. For these reasons, the appeal on ground(a) fails.

Thomas Shields

INSPECTOR