

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2015/00006

LOCATION: Golygfa, Llwyn y Rhos, Llanrhaeadr, Denbigh

INFRINGEMENT: Fencing in excess of permitted development limit – 2 metres

RELEVANT PLANNING POLICIES AND GUIDANCE

Policy RD 1 – Sustainable Development and Good Standard Design

GOVERNMENT GUIDANCE

Planning Policy Wales 2002

Technical Advice Note (Wales) 9: Enforcement of Planning Control

HUMAN RIGHTS CONSIDERATIONS

The provisions of the Human Rights Act 1998 are taken into account when considering taking enforcement action against unauthorised development. In this instance the matter in question relates to the right of the owner of land to erect fencing as a boundary treatment in excess of the 2 metre limit afforded under Permitted Development Rights. When balanced against the general public interest, the lack of impact that the development has on the amenity of the area does not justify intervention by the Local Planning Authority. No specific human rights issues have been raised by the owner of the property or any other interested party.

1. BACKGROUND INFORMATION

- 1.1 Golygfa and Ty Maen are neighbouring bungalow type properties situated in a small cul de sac known as Llwyn y Rhos, near Llanrhaeadr. Llwyn y Rhos has direct access to the A525 Denbigh to Ruthin road, to the north of Llanrhaeadr.
- 1.2 There is a history of complaint and counter-complaint by the owners of each property.
- 1.3 During December 2014, the owner of Ty Maen lodged a complaint to the effect that the neighbour at Golygfa had erected boundary fencing in excess of the 2 metre limit afforded by Permitted Development Rights.
- 1.4 On the 11 December 2014, a Planning Compliance Officer undertook a site visit. This revealed that the owners of Golygfa had erected timber lap fencing panels immediately adjacent to similar fencing erected by the owner of Ty Maen. However, the new fencing was slightly higher and could be seen extending above that at Ty Maen. There was also a section of slightly higher plastic coated wire open mesh fencing, which appeared to be restraining a hedge in Golygfa's garden adjacent to the boundary. Both the new timber and wire fencing exceeded 2 metres in height and therefore required planning permission. The hedge is not development, and as such does not require planning permission. The fact that the hedge is over 2m high, does not constitute a breach of planning control
- 1.4 On the 23 December 2014, a letter was forwarded to the owners of Golygfa which outlined there was a breach of planning control and they were advised to submit a retrospective planning application in an attempt to regularise matters. To date no such application has been submitted.

2. REASONS FOR NOT PURSUING ENFORCEMENT ACTION

- 2.1 On the 27 March 2015, a further site visit was undertaken by a planning officer, the Local Member and the local MP.
- 2.2 In relation to the timber lap fencing it is 2.2 metres in height and therefore only 20cm (200mm), above the permitted development height. Having regard to Technical Advice Note (TAN) 9 produced by the Welsh Government, it is proposed that no further action be taken against this breach of planning control. The fence is only marginally over the 2 metre limit and has no significant detrimental impact on the amenities of Ty Maen. In Officers view it would be unreasonable to serve an enforcement notice solely to remedy the breach in the absence of a valid planning permission. It is therefore considered not expedient to take enforcement action.
- 2.3 The small strip of plastic coated wire open mesh fencing, situated between the hedge and the boundary between the two properties, exceeds the height of the timber fencing, but not the hedge. There are some metal 'holders' attached to the wire mesh fence. The 'holders' and the wire mesh fence are clearly visible from Ty Maen, although set against the back drop of the adjacent hedge. The wire mesh fence clearly exceeds 2 metres in height and therefore also requires planning permission. Again having regard to TAN 9, it is proposed that no further action be taken against this breach of planning control. Whilst the fence exceeds the 2 metre limit, it has no significant detrimental impact on the amenities of Ty Maen given its limited length and the fact that it is viewed against the back drop of the hedge. In Officers view it would be unreasonable to serve an enforcement notice solely to remedy the breach in the absence of a valid planning permission. It is therefore not expedient to take enforcement action.
- 2.4 The Local Member and MP have been advised of the conclusions reached by the Officers. The Local MP disagrees with those conclusions and considers that enforcement action is justified and should be taken. The Local Member has requested that the matter be considered by Planning Committee.

3. RECOMMENDATION

- 3.1 It appears that the owner of Golygfa have breached planning control by erecting boundary treatment between the two properties that exceeds 2 metres in height and therefore requires planning permission, but for which no permission has been sought or granted. However, in accordance with the advice contained in TAN 9, as it is considered that these breaches of planning control are minor and have no significant impact upon the amenities of Ty Maen, approval is sought to take no further action on the basis that it cannot be justified.