

## **PLANNING ENFORCEMENT REPORT**

**REFERENCE:** ENF/2012/00032

**LOCATION:** 1 Willow Court, Rhyl

**INFRINGEMENT:** Unauthorised erection of boundary fence over one metre in height adjacent to the highway

### **RELEVANT PLANNING POLICIES AND GUIDANCE**

DENBGHSHIRE UNITARY DEVELOPMENT PLAN  
Policy GEN 6 – Development Control Requirements

#### GOVERNMENT GUIDANCE

Planning Policy Wales 2011  
Technical Advice Note (Wales) 9: Enforcement of Planning Control

#### HUMAN RIGHTS CONSIDERATIONS

The Human Rights Act 1998 is taken into account when considering taking enforcement action against unauthorised development. In this instance, the matter under consideration relates to the rights of an owner of a residential property to erect a boundary concrete panel and timber fence over one metre in height adjacent to a highway, without first securing the required planning permission to do so. It is considered that such development is not in the general public interest, which outweighs the rights of the owner.

No specific human rights issues have been raised by the owner of the dwelling or any other interested party.

## **1. BACKGROUND INFORMATION**

- 1.1 The property in question is a single storey dwelling situated on a corner plot at the junction of Willow Court and Redwood Drive, Rhyl. The boundary treatment in question comprises a base of concrete panels topped with timber lap fencing to a height of 1.8 metres and is situated on the Redwood Drive boundary adjacent to the highway. Any gate, fence or wall erected adjacent to a highway exceeding one metre above ground level requires planning permission by virtue of Schedule 2, Part 2 Class A.1 (a) of the Town and Country Planning (General Permitted Development) Order 1995.
- 1.2 On the 17 July 2012, as a result of an internal complaint, a Planning Compliance Officer undertook a site visit. The Officer verified that the boundary treatment represented a breach of planning control and took a photograph.
- 1.3 On the 23 July 2012, the Officer forwarded a letter to the owners of 1 Willow Court, outlining the concern.
- 1.4 The owners elected to submit an application for planning permission to retain the unauthorised boundary treatment, which was received on the 5 September 2012 and subsequently validated on the 5 October 2012, code 45/2012/1163/PC refers.

- 1.5 The application has been considered by a Planning Officer and the Officer's separate report appears before the Planning Committee with a recommendation for refusal immediately prior to this item.

## **2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE**

- 2.1 The unauthorised development has been carried out within the last four years.
- 2.2 It appears that the fencing in question replaced shrubs and other planting which had been previously utilised as a boundary treatment.
- 2.3 The scale, design and materials of the new boundary treatment unacceptably affects the form and character of the area and is therefore in conflict with Policy GEN 6 (i) and (ii) of the Denbighshire Unitary Development Plan.
- 2.4 The use of conditions as part of any grant of planning permission for the retention of the unauthorised boundary treatment could not address these conflicts with policy.

## **3. RECOMMENDATION**

- 3.1 That authorisation be granted for the following:
- (i) Serve an Enforcement Notice reduce the height of the unauthorised front boundary adjacent to the highway to 1 metre or lower within a period of 2 months
  - (ii) Instigate prosecution proceedings, or the appropriate action under the Planning Acts against the person, or persons upon whom any Enforcement Notice, or other such Notice is served, or against whom legal action is taken should they fail to comply with the requirements of the Enforcement Notice.