



Appeal Decision

Site visit made on 28 July 2020

by **P H Willows BA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 August 2020

Appeal Ref: APP/T2405/C/20/3247770

Land at Rosedene, Broughton Road, Stoney Stanton LE9 4JA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Miss Kerri Peake against an enforcement notice issued by Blaby District Council.
 - The enforcement notice was issued on 30 January 2020.
 - The breach of planning control as alleged in the notice is, without planning permission, the erection of a front/side boundary fence with a height in excess of 1 metre located adjacent to a highway (Broughton Road, Stoney Stanton).
 - The requirement of the notice is: 'Reduce the total height of the fence in it's entirety to no more than 1 metre measured from the level of the land on which it is erected'.
 - The period for compliance with the requirements is 1 month.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice be corrected by deleting the word 'it's' in section 5 (What you are required to do) and replacing it with the word 'its'. Subject to this change the appeal is dismissed and 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.

The Notice

2. The requirement in section 5 of the notice incorrectly uses the word 'it's' rather than 'its'. Nevertheless, the requirement is clear and it is inconceivable that this minor error has caused confusion to any party. Accordingly, I am able to correct the notice without causing injustice.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area.

Reasons

4. Rosedene is a semi-detached house, with a garden to the side. A low stone wall runs along the front boundary. The fence targeted by the enforcement notice is situated behind a section of the wall. It is fairly modest in length, occupying only a small part of the frontage. Nevertheless, its height (the notice says 1.9m) means that it juts up noticeably in relation to the low wall in front of it. This gives it an incongruous, rather ungainly appearance. Seen in the context

- of the stone wall, its wooden construction only adds to its incongruous appearance. Furthermore, its position on the road frontage means that it is highly prominent. Consequently, it harms the street scene.
5. There is a variety of front boundary treatments along this section of Broughton Road. However, the appeal property is seen in the context of its attached neighbour, which has a low boundary wall along the road frontage (albeit with a low wooden fence to the side boundary). In this setting, the fence appears out of place. Although Rosedene itself has a wooden fence along the boundary to its side garden, that is lower than the fence targeted by the notice and is also seen against the backdrop of the planting behind it.
 6. I appreciate that there are other wooden fences along Broughton Road, the appellant referring in particular to one opposite the appeal property. However, the fencing opposite is longer and is seen in the context of the building next to it. It is also set behind a substantial brick wall, higher than the wall at the appeal property. Consequently, it does not give the impression of jutting up in the way the fence at the appeal property does and does not cause the same visual harm as a result.
 7. The appellant also refers to the planning permission granted for a wall and railings at 35 Broughton Road. However, No35 is some distance from the appeal property and has no bearing on its setting. I have no details of how the Council reached its decision in that case but, notwithstanding its height, it was clearly a very different proposal to the fence built here.
 8. The appellant says that the fence is of good quality construction and that the wood used in it is from a sustainable source, as encouraged by Core Strategy Policy CS21, but that does not alter my view that it is visually harmful, for the reasons I have given. While the appearance of the fence could be improved by staining it a suitable colour, that would not overcome the harm arising from its height and position.
 9. For these reasons I conclude that the fence harms the character and appearance of the area. This brings it into conflict with Policy DM1 of the Blaby District Local Plan Delivery Development Plan Document, which seeks to improve the design quality of all new developments. The appellant refers also to Core Strategy Policy CS2, which says that development proposals should demonstrate that they have taken account of local patterns of development and are sympathetic to their surroundings. I do not have full details of the Core Strategy or the policy, but do not regard the fence that has been erected as sympathetic to its surroundings.
 10. I understand that renovation works are being carried out at the property and that the fence screens the rubble and waste associated with this. However, this benefit does not justify the fence, given its harmful appearance. I have no technical evidence to support the suggestion that the fence could help protect against flooding, and I attach little weight to that consideration.
 11. The appellant wishes to retain the fence for security reasons and refers to specific instances of crimes at the property. Core Strategy Policy CS2 aims to create a safe environment where crime and disorder or fear of crime does not affect quality of life. While I sympathise with this, I have no evidence to show that security at the property can only be addressed with a fence in this highly

prominent location and consequently attach only limited weight to this consideration.

12. Having considered all matters raised in support of the fence they do not outweigh the harm I have found and the conflict with the development plan. I therefore conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and refuse to grant planning permission on the deemed application.

Peter Willows

INSPECTOR

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)**

ENFORCEMENT NOTICE

ISSUED BY: Blaby District Council

1. **THIS NOTICE** is issued by the Council because it appears to it that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act, at the Land described below. The Council considers that it is expedient to issue this notice, having regard to the provisions of the Development Plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2. **THE LAND TO WHICH THE NOTICE RELATES**

Land at Rosedene, Broughton Road, Stoney Stanton, LE9 4JA, shown edged red on the attached plan (the Land)

3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

Without planning permission the erection of a front/side boundary fence with a height in excess of 1 metre located adjacent to a highway, (Broughton Road, Stoney Stanton) on the Land to which this notice relates. The approximate location of the fence is indicated in blue on the attached plan.

4. **REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breaches of planning control have occurred on the Land to which this notice relates within the last four years.

The Land is located in the village of Stoney Stanton and comprises of a semi-detached dwelling which fronts onto Broughton Road. It is situated within a Settlement Boundary as set out on the Policies Map where Policy DM1 of the Blaby District Local Plan (Delivery) Development Plan Document (2019) apply.

Policy DM1 states that:

'Within the Settlement Boundaries as set out on the Policies Map, development proposals consistent with other policies of the Local Plan will be supported where the following criteria are met. The development proposal will:

...b) Be in keeping with the character and appearance of the area;

...d) Have a satisfactory layout, design and external appearance...'

It is considered that the retention of this 1.9m close boarded fence by reason of its overall height and proximity to Broughton Road highway boundary represents an excessively prominent and visually intrusive feature within the street scene, which would be out of keeping with and detrimental to the character and appearance of the locality. As such the development is contrary to Policy DM1 of the Blaby District Local Plan (Delivery) Development Plan Document (2019).

5 WHAT YOU ARE REQUIRED TO DO

Reduce the total height of the fence in its entirety to no more than 1 metre measured from the level of the land on which it is erected.

6 TIME FOR COMPLIANCE

1 month after this notice takes effect.

7 WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 17th February 2020 unless an appeal is made against it before that date.

Dated: 17/01/2020

Signed

Andrew Etherington
Planning Enforcement Manager
Blaby District Council
Council Offices
Narborough
Leicester
LE19 2 EP

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State before the date specified in paragraph 7 of the notice. Please read the attached note from the Planning Inspectorate which accompanies this notice.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in paragraph 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

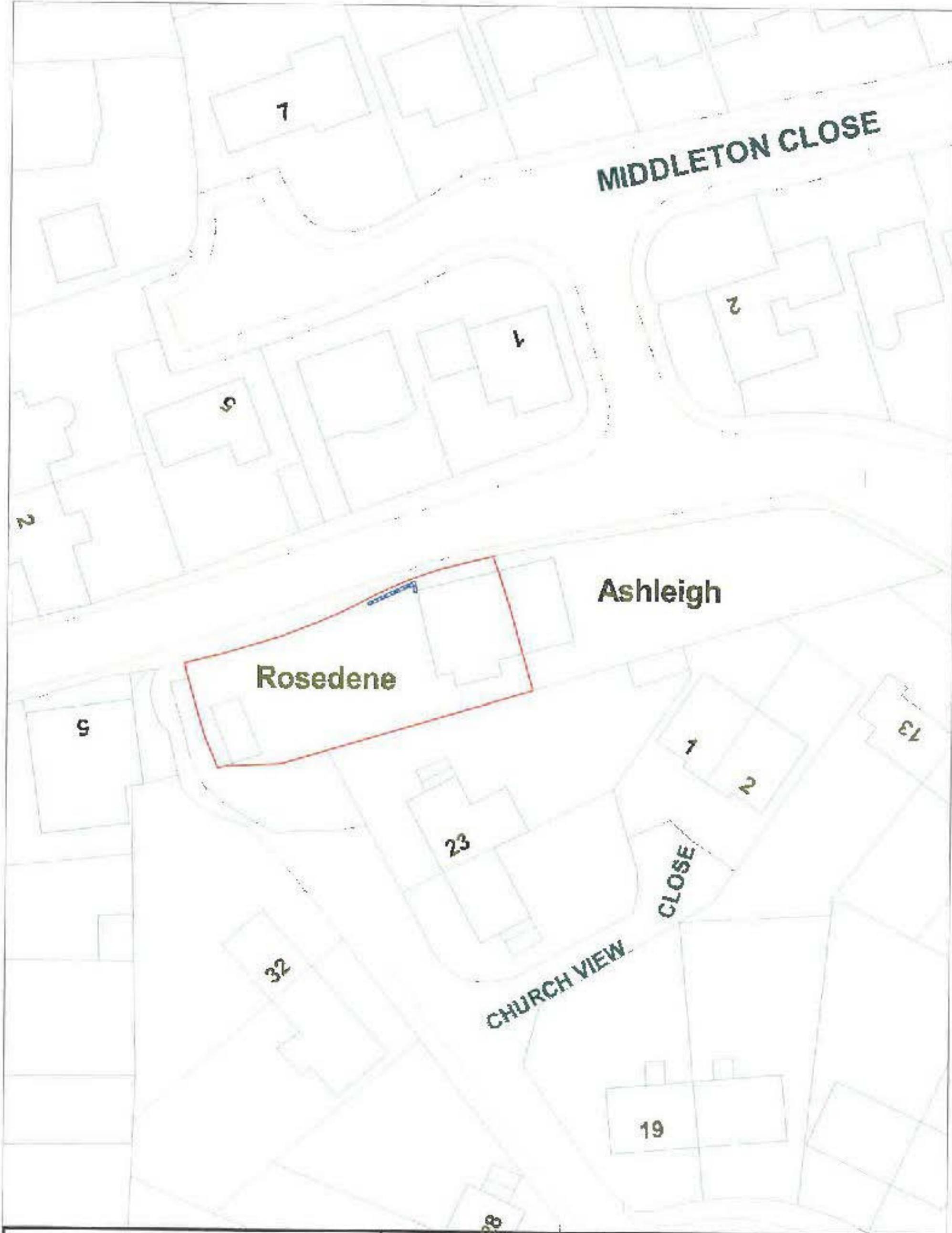
PERSONS SERVED WITH ENFORCEMENT NOTICE

**Town and Country Planning (Enforcement Notices & Appeals) (England)
Regulations 2002 Part 2, 5(c)**

Stewart Anderson Peake
Rosedene
Broughton Road
Stoney Stanton
Leicestershire
LE9 4JA

Kerri Anderson Peake
Rosedene
Broughton Road
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Approximate location of fence shown in blue
 Date :- 17 January 2020
 O. S. Map Ref. :- SP4994NW
 Scale :- 1:500

