

WITHYCOMBE RALEIGH
(Exmouth)

No. 07/F0479
(Enforcement)

Date complaint received:
13 September 2007

Land Owner:

Mr and Mrs Rorke

Location:

Four Beeches, The Common, Exmouth

Alleged Breach of
Planning Control:

Erection of a timber close boarded boundary fence

SITE LOCATION AND DESCRIPTION

Four Beeches is located on the B3179 which marks the boundary of the East Devon Area of Outstanding Natural Beauty. The dwelling is situated in the open countryside to the north east of Exmouth.

The area surrounding Four Beeches has a rural character and is largely devoid of development. Two further properties are located adjacent and to the south east although these dwellings, in addition to Four Beeches are set back from the main road.

BACKGROUND

A retrospective application was received on 3 December 2007. This application was refused planning permission under the delegated procedure on 6 March 2008.

Because this application was dealt with under the delegated procedure, and the Town Council do not support enforcement action it has to be reported to the Development Control Committee to seek authority to instigate such legal action as necessary to secure the removal of the unauthorised close boarded timber fence.

Photographs and a site plan relating to this fence as taken in September 2007 and May 2008 are attached for Members' information.

RELEVANT PLANNING HISTORY

App.No:	Proposal	Decision	Date
07/3374/FUL	Retention of timber close boarded boundary fence	Refused	06.03.2008

CONSULTATIONS

County Highway Authority

No objection.

TOWN/PARISH COUNCIL

Do not support enforcement action.

CURRENT SITUATION

The close boarded timber fence remains in situ and the owner has indicated his intention to lodge an appeal against the decision by East Devon District Council to refuse planning permission.

PLANNING VIEWPOINT

The area surrounding Four Beeches has a rural character and is largely devoid of development. Two further properties are located adjacent and to the south east although these dwellings, in addition to Four Beeches are set back from the main road. The street scene is characterised by well developed hedging and trees and the fence therefore appears incongruent with this setting. Although an earth bank between the fence and the edge of the carriageway has been planted, no information about this landscaping has been submitted and it is therefore difficult to determine whether this would be sufficient to screen the fence. The height of the fence (2m high plus bank) only adds to the visual intrusion caused by its proximity to the road which stands in contrast to the rural setting.

The reason for refusal being that the close boarded fence, by reason of its inappropriate scale, height and prominent siting, is considered to be detrimental to the rural character and appearance of the area. The development is therefore contrary to Policy CO6 (Quality of New Development) of the Devon Structure Plan 2001 – 2016 and Policies S4 (Countryside Protection) and D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 1995 – 2011.

HUMAN RIGHTS ACT

Article 8 of the European Convention of Human Rights confirms that everyone has the right to respect for the private life and their home. Interference with this right by a Council is only authorised where the law allows and where the Council considers that action is necessary in a democratic society for, inter alia, the protection of the rights and freedoms of others. Furthermore, any action taken by the Council has to be proportionate in the sense that the Council does not require more than is reasonable or necessary to address the harm caused by the issue.

RECOMMENDATION

That the Head of Legal and Member Services be authorised to instigate such legal action as necessary to secure the removal of the unauthorised close boarded timber fence or its reduction in height to the permitted allowance of 1.0 metre from the original ground level where it lies adjacent to the highway and 2 metres otherwise which will also include the height of the bank that it stands on.

List of Background Papers

Application file, consultations and policy documents referred to in the report.