

Nicola Spencer

From: Nikolas Antoniou
Sent: 28 May 2014 16:43
To: [REDACTED]
Cc: Nicola Spencer; Delwyn Jones
Subject: FW: FP/78/14/HH

Dear Mr Field

I understand that you have spoken with Mr Jones and Ms Spencer regarding the above application.

Your view is that the application amounts to the construction of a new boundary fence and therefore a householder application is appropriate. It is the Local Planning Authorities view that that the new boundary fence is the containment required to support a change of use and incorporation of presently open garden land to private garden land. In other words the changing fence line is ancillary to the principle aim of incorporating land.

In the majority of cases the Council has always taken the view that the enlargement of private garden areas through the incorporation of strips/ of land and areas open to public view amounts to a change of use of land for which full planning application forms need to be completed and the appropriate planning fee paid.

I have discussed this case at length with Mr Jones this afternoon and now that he understands there are two elements to this proposal and that the fence is the secondary element required to contain the primary element which is the change of use of land he supports what is ordinarily the LPA's view. I state ordinarily because with approximately 1800 applications a year it is always possible in a very small number of cases that an application may go through on the wrong planning form undetected but where it is picked up as in this case we must obviously correct it.

I hope this clarifies matters.

Regards

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From: Nicola Spencer
Sent: 28 May 2014 13:40
To: Nikolas Antoniou
Subject: FW: FP/78/14/HH

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From: Matthew Field [REDACTED]
Sent: 28 May 2014 13:39

To: Nicola Spencer
Subject: SP/78/14HH

Dear Nicola

Thank you for taking the time to speak with me again today.

As we discussed I would ask you to look at the matter again.

The argument that I am asking you to consider is whether the change of use is an application in its own right or whether it is subservient to the main matter being asked to be considered which is the construction of the new boundary feature. At which time all relevant matters may be considered in any event. Just because there are two limbs to the development in this case it does not follow necessarily that the fee should be increased beyond the householder application fee.

I would direct you to Paragraph 55.10 of the planning encyclopaedia and in particular the cases of

R. v. Durham County Council, Ex p. Lowther [2002] Env. L.R. 13 and

R (on the application of Edwards) v Environment Agency and another

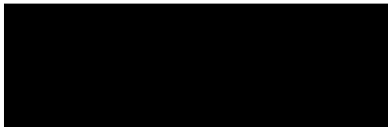
I look forward to hearing from you once you have sought the advice of your own legal team.

Kind regards.

Matthew Field
Partner

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