

Planning Support Statement

on

Retention of Highway land as part of the residential curtilage and retention of the boundary fence.

At

**114 Vigilant Way
Gravesend
Kent
DA12 4PN**

For

**Mr & Mrs Richmond
Gravesend
114 Vigilant Way
Kent
DA12 4PN**

Prepared by
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Project Ref No:	JMD 1145
Date:	June 2021
Ref & Status & Rev.	JMD-1145-M-01- Planning Support Statement-Fin V3

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1 Introduction

1.1 Project Particulars

The Project

Name: 114 Vigilant Way
Nature: Replacement of side boundary fencing (North Elevation)
Location: 114 Vigilant Way
Gravesend
Kent
DA12 4PN

Client / Homeowner / Employer

Name: Mr & Mrs Richmond
Address: 114 Vigilant Way
Gravesend
Kent
DA12 4PN

Agent Details

Name: JMD Property Services
Address: 28 Sirdar Strand, Riverview Park, Gravesend, Kent, DA12 4LP
Contact: Michael Burden
Telephone: 01474 740299
Email: info@jmdd.co.uk

1.2 Site / Existing Building

THE SITE

Description:
Residential property on the Riverview Park development

EXISTING BUILDINGS ON / ADJACENT THE SITE

Residential

ACCESS TO THE SITE

Access to the site will be via the front (main) elevation on the public highway.

PARKING

Off street parking associated with 114 Vigilant Way

SURROUNDING LAND / BUILDING USES

Surrounding land: Residential

Building use: Residential

1.3 Overview of Proposed Works

THE WORKS

Removal of existing timber fence

Remove vegetation to verge between old fence and position of new fence

Reposition new timber fencing comprising concrete post and gravel board close to the edge of kerb stones associated with public highway (Tarmac pavement)

1.4 Drawing / Document Register

Planning application to be read in conjunction with the following drawings and documents:

Drawing Register

DWG's associated with boundary treatment

DWG Ref:	Rev:	Description	Scale:
JMD-1145-B-010	P 2	Site Plan	1:1250 @ A4
JMD-1145-B-020	P 2	Existing Location Plan	1:100 @ A3
JMD-1145-B-030	P 2	Proposed Location Plan	1:100 @ A3
JMD-1145-B-040	P 2	Existing / Proposed Elevation	1:100 @ A3
JMD-1145-B-050	P 2	Existing Block Plan	1:500 @ A3
JMD-1145-B-060	P 2	Proposed Block Plan	1:500 @ A3
JMD-1145-B-070	P 2	Existing Block Plan	1:200 @ A1
JMD-1145-B-080	P 2	Proposed Block Plan	1:200 @ A1
JMD-1145-B-090	P 2	Existing Block Plan	1:100 @ A1
JMD-1145-B-100	P 2	Proposed Block Plan	1:100 @ A1

DWG's associated with side / rear extension

JMD-1127-B-051	SA 1	Existing (Drainage)	1:100 @ A3
JMD-1127-B-052	SA 1	Proposed (Drainage)	1:100 @ A3

Document Register

File Ref:	Description	Status
JMD-1145-M-01	Planning Support Statement	FIN – V 3

Following Planning Statement to be read in conjunction with previously issued Planning Statement V 2

2 GENERAL INFORMATION

2.1 Property

114 Vigilant Way is a typical mid 1960s semi-detached 2 storey, 3 bedroom residential property found on the Riverview Park development.

The property is a traditional brick / cavity / block construction under the timber pitched roof.

2.2 Planning History

Record indicates that there has been 2 past planning application associated with this property namely:

- Single storey rear extension with new roof part pitch / flat roof to extend over existing side extension.

Application Ref: 20210244 approved on 21st April 2021.

- Single storey side and front extension to form porch, WC, study and enlarged kitchen.

Application Ref: 19780220, approved on 7th March 1978

2.3 Proposed Works

Proposed work (Now completed) are:

1. Remove existing fencing
2. Remove vegetation on the grass verge for the new positioning of the boundary fence 450 mm in from the public highway.
3. Supply and install new concrete posts and gravel boards and vertical close board fencing.

Materials to be used will include concrete fence posts and gravel board and timber vertical close board fencing.

New fence height – approximately 2.0 m from ground level of the public pavement

Works have been completed to allow for working space for the construction of the approved single storey rear extension under application 20210244 approved on 21st April 2021.

2.4 Title Deeds / Verge Ownership

Correspondence with Gravesend Borough Council indicates that it is their understanding that although the ownership of the verge does not belong to Gravesend Borough Council, advise given to contact Kent Highways.

Correspondence with the Highways Authority indicates that the ownership of the verge between the original fence line and edge of kerb stone is freeholders of 114 Vigilant Way

Title deeds strongly suggest that the verge is within the boundary of the the property identified as 114 Vigilant Way.

Correspondence received from Gravesend Borough indicates that it is their understanding that the ownership of the verge belongs to Kent Highways and that in the planning application to be submitted, Ownership Certificate B is to be completed.

Verbal discussions between Mr. Richmond and Kent Highways concluded that ownership of the verge is not Kent Highways, and if not GBC, then by default ownership must either be with the land known as 114 Vigilant Way or an undetermined owner.

2.5 Planning History / Application

As advised by the Local Planning Authority officer Mr Ian Brown, an application has been submitted via the Government Planning Portal for the repositioning on the boundary fence (North Elevation).

As requested, and advised by the Local Planning Authority, Ownership Certificate B was duly signed, and notice given to Kent Highways January 2021 by way of telephone conversation by Mr Richmond.

Kent Highways have been asked to confirm their position with regard to ownership, as yet no confirmation has been received by the applicants, Mr & Mrs Richmond.

The first application was validated on 24th June 2021 with a decision due by 12th August 2021.

The decision notice for refusal was issued on 22nd March 2022

Following correspondences with Planning Officers, on client instruction an amended application has been submitted as my client's 'free go' that address concerns raised in the delegated report. (Refer to Appendices C, D & E)

Throughout the consultation period which ended on the signing & issuing of the delegated report on 22nd March 2022, no request was received request an Extension of Time until an email received after the decision notice had been signed, agreement reach with Planners as to how to move forward. (Refer to Appendices C, D & E)

During the consultation period we were advised that the Planners recommendation was for refusal. We advised Planners that previous applications for boundary treatment of a similar nature had been approved and requesting information as to why these were approved, and our application refused – no correspondence / explanation received from Planners.

The addition land is required to allow for the construction of the side / rear extension / drainage works – hence this amended application / documentation and drawings.

3 JUSTIFICATION FOR THE WORKS

3.1 General Comment

The works were undertaken ahead of the approved extension Re: 20210244 to allow for working space for the construction process to facilitate necessary new sewer connection

The final positioning of the new boundary fence will be approximately 450 mm in from the junction of the grass verge / pavement and will form part of the redefined cartilage of the property.

New fence height – approximately 2.0 m take into account the lower ground level of the public pavement against the garden levels.

The existing vegetation prior to removal was trimmed by the owners of the property associated with 114 Vigilant Way as neither GBC nor KCC acknowledge that maintenance of the grass verge is their responsibility.

The original application was in-line with the previously approval boundary wall treatment works at:

- 1 Imperial Way Ref: 20151261
- 2 Leander Drive Ref: 20041148
- 90 Leander Drive Ref: 20200125

Delegated reports / decision notices for the above all support the application for the boundary treatment works, which included remove grass verges and form the new boundary fence / wall at the junction with highway's pavement.

3.2 Appearance and Design

Although the vegetation from the grass verge has been removed, the installation of a timber fence with concrete post / gravel boards marries many replaced boundary fences on the Riverview Park development.

The use of timber fencing and concrete posts and gravel boards is a standard design which does not deter from the visual aspect to the surround boundary treatments.

Currently there is a small 'pinch point' between the existing side extension and the original position of the fencing. The repositioned fence helps to eliminate the pinch point with the advantage of providing for an improved circulation space round the proposed new side / rear extension and sighting of underground drainage.

The amended design allows for the fence to site back 450 mm from the pavement / grass verge junction, following the line of junction and incorporates a 'splay' at the end of the fence together with non-reinstatement of the brick pier / dwarf wall adjacent to the parking area for improved sightlines form pedestrians approaching the private parking area for 114 Vigilant Way.

3.3 Security, Access and Environmental Considerations

Security:

The installation of the new fencing marring in size / materials with existing will maintain the properties security.

Access

Under the existing boundary fence position, vehicle access was impaired due to the brick walling and angle of approach (Ref: Appendix A – Photo 1)

As it appears that the 'verge land' is associated with the land known as 114 Vigilant Way the repositioned boundary fence allows for the removal of the brick walling and one timber panel to improve access to and from the designated parking area associated with 114 Vigilant Way (Ref: Appendix A – Photo 2)

Environmental Considerations

The original fence / hedgerow allowed for the accumulation of rubbish and debris to build-up.

With GBC or Kent Highways not taking responsibility for ownership of the verge, no maintenance of clearance of rubbish has been undertaken – rubbish removal and fence maintenance was reluctantly undertaken by Mr & Mrs Richmond.

With the installed fence positioned on the boundary line, rubbish / debris has been kept to a minimum.

3.4 Highways Authority

With regard to the installation of the reposition fencing, the Highway Authority have verbally expressed no concerns.

Attempts have been made to obtain correspondence from Kent Highways stating the the 'amenity land' is not in their ownership, however, confirmation of ownership requested, to date this has not been received

KCC Highways do keep a register (Kent County Council's Land and Property Holdings – can be viewed and downloaded online) identifying which land / properties are the responsibility KCC.

The grass verges associated with 114 Vigilant, Way, 1 Imperial Drive, 2& 90 Leander Drive NOT NOT appear on this register.

4 CONCLUSION

As Gravesham Borough Council and Kent Highways have stated that ownership of the former grass verge is not their responsibility, and given that previous boundary treatment works, which marry that of our original proposal have been approved, it would not be unreasonable to conclude that the original plans should have been approved.

The amended drawings / repositioning of the new boundary fence sits solely on the land as owned by Mr and Mrs Richmond know as 114 Vigilant Way.

The amended drawings / repositioning of the new boundary fencing does not encroach on to adjoining land and allows for enhance circulation space round the proposed new extension.

Material used are in keeping with boundary fencing treatment works on the Riverview Park development.

Height of the installed fence will be no higher than the original fence.

We trust that you are in agreement in that the newly installed fence is:

- off sufficient quality.
- off sufficient quality.
- does not deter from a visual aspect
- Provides enhances access on the designated off street parking area / garage.
- no significant loss of amenity space to the public

We therefore suggest that the installed fencing either remains as installed and that the retrospectively application is approved, even with or without condition.

APPENDIX A - PHOTOGRAPHS



Photo 1

View of restrictive access to owner land / garage due to positioning of original fence and brick walling



Photo 2

View of enhanced access to owner land / garage following fence re positioning and removal of brick walling



Photo 3

View of vegetation on verge along the boundary line with the public highway.



Photo 4

View of existing boundary fence the boundary line with the public highway.



Photo 5

View of new boundary fence the boundary line with the public highway.



Photo 6

2nd View of new boundary fence the boundary line with the public highway.

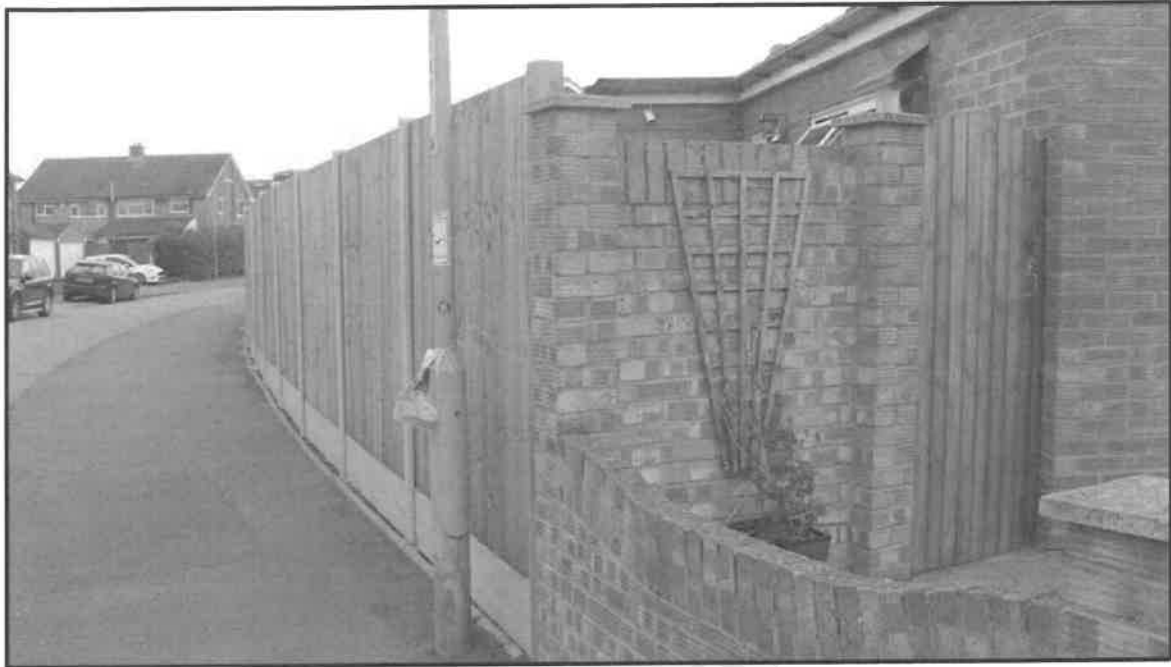


Photo 7

3rd View of new boundary fence the boundary line with the public highway as taken from near the corner junction of Vigilant way and Britannia Drive.

Note the height similarity between the new fence; height of the vegetation as can be seen in photos 3 and 4



Photo 8

View of installed fencing showing typical distance between face of concrete post side face of kerb stones forming the retaining barrier for the public highway pavement.

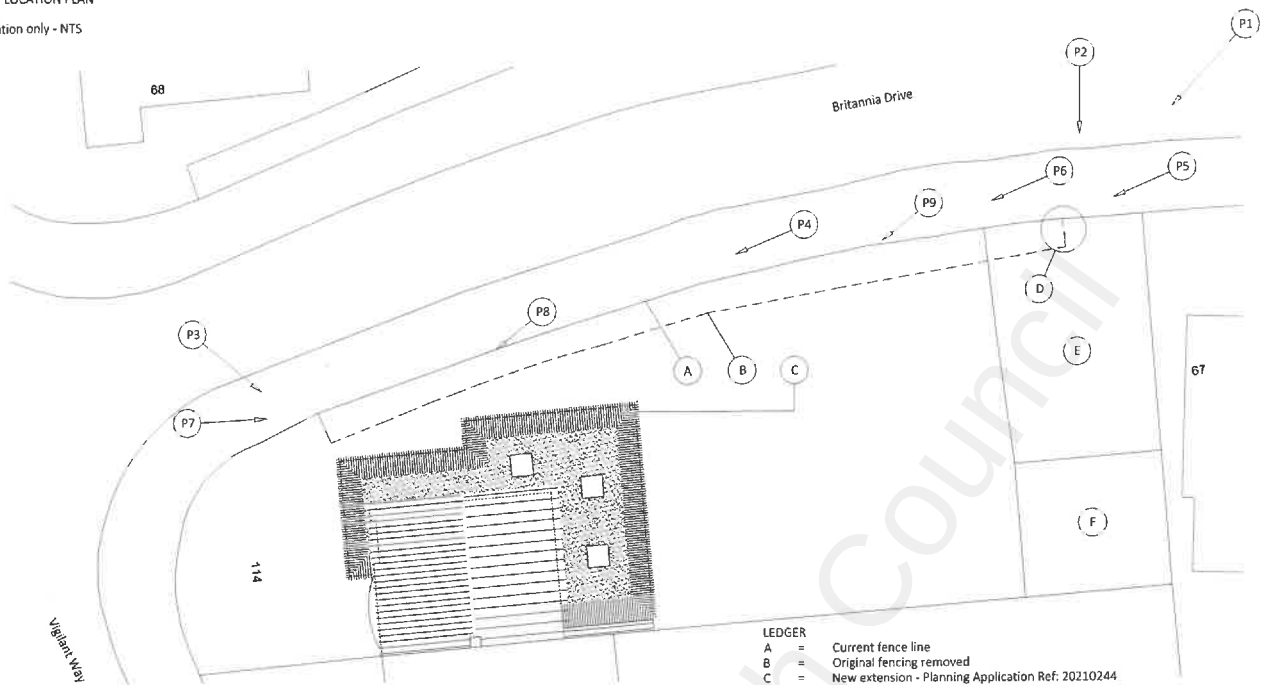


Photo 9

View of original boundary fence the boundary line with the public highway - note build-up of rubbish

PHOTOGRAPH LOCATION PLAN

Scale: Information only - NTS



LEDGER
 A = Current fence line
 B = Original fencing removed
 C = New extension - Planning Application Ref: 20210244
 D = Walling removed for enhanced access to garage / parking
 E = Designated off road parking
 F = Double garage

Do not scale this drawing All dimensions must be checked on site before fabrication / construction Material & workmanship to be to the best of their respective kind and in accordance with current British and European Standards & Codes of Practice, Statutory Authority & Manufacturers recommendations / specification	This Dwg may have been reduced Scale 1:1 0 10 20 30 40 50mm Scale 1:100 0 1 2 3 4 5m	Notes / Ledger	Client / Location Mr & Mrs Richmond 114 Vigilant Way Gravesend Kent DA12 4PN	Job Title Current Boundary Fencing 2nd Submission Drawing Title Photograph Map Incorporated into Planning Statement as Appendix A - Photographs	Scale NTS @ A3 Designated by MB Drawn by MB Checked by Client (CL) Approved by Client Revision P2 Status Planning Issue File Ref JMD-1145-E-Drawings-02	Date June 2022 J M D Property Services 28 Sinder Strand Riverside Park Gravesend Kent DA12 4LP t: 01474 740299 info@jmd.co.uk
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Title Number : K111283

This title is dealt with by HM Land Registry, Nottingham Office.

The following extract contains information taken from the register of the above title number. A full copy of the register accompanies this document and you should read that in order to be sure that these brief details are complete.

Neither this extract nor the full copy is an 'Official Copy' of the register. An official copy of the register is admissible in evidence in a court to the same extent as the original. A person is entitled to be indemnified by the registrar if he or she suffers loss by reason of a mistake in an official copy.

This extract shows information current on 30 MAR 2022 at 14:50:02 and so does not take account of any application made after that time even if pending in HM Land Registry when this extract was issued.

REGISTER EXTRACT

Title Number	: K111283
Address of Property	: 114 Vigilant Way, Gravesend (DA12 4PN)
Price Stated	: £375,000
Registered Owner(s)	: GLEN RICHMOND and KAREN RICHMOND of 114 Vigilant Way, Gravesend DA12 4PN.
Lender(s)	: TSB Bank PLC

Title number K111283

This is a copy of the register of the title number set out immediately below, showing the entries in the register on 30 MAR 2022 at 14:50:02. This copy does not take account of any application made after that time even if still pending in HM Land Registry when this copy was issued.

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A: Property Register

This register describes the land and estate comprised in the title.

KENT : GRAVESHAM

- 1 The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being 114 Vigilant Way, Gravesend (DA12 4PN).
- 2 The land has the benefit of the rights granted by but is subject to the rights reserved by the Transfer dated 1 November 1960 referred to in the Charges Register.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (07.07.2017) PROPRIETOR: GLEN RICHMOND and KAREN RICHMOND of 114 Vigilant Way, Gravesend DA12 4PN.
- 2 (07.07.2017) The price stated to have been paid on 30 June 2017 was £375,000.
- 3 (07.07.2017) RESTRICTION: No disposition of the registered estate by the proprietor of the registered estate is to be registered without a certificate signed by a conveyancer that that conveyancer is satisfied that the person who executed the document submitted for registration as disponor is the same person as the proprietor.

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 By a Transfer dated 17 February 1925 made between (1) The London County Council and (2) Herbert Moses Thomas the land in this title and other land was transferred "Subject to all chief quit and other rents and outgoing including tithe rent charges or annuities in lieu thereof and to all manorial rights and incidents of tenure rights of way whether public or private water light drainage and other easements or quasi easements affecting the same or now or heretofore used or enjoyed in respect of any other property of the said London County Council and to all rights of adjacent owners and to any subsisting liabilities to repair or cleanse or to contribute to the repair and cleansing of roads walls bridges drains fences watercourses culverts and other like matters without any obligation on the part of the said London County Council to show the origin of such rents and incidents of tenure liability or easements or to define such easements."

The said Transfer also excepted therefrom any easements rights or privileges over or in relating to any adjoining land belonging to the said Council which might by implication of law have otherwise passed by the Transfer other than those granted thereby.

Title number K111283

C: Charges Register continued

- 2 The part of the road included in the title is subject to the rights in favour of The South Eastern Electricity Board to lay down construct maintain use repair remove renew alter inspect examine and test cables and appliances (including ducts for carrying such cables and appliances) for the transmission of electricity.
- 3 A Transfer dated 1 November 1960 made between (1) Dolphin Development Co. Limited and (2) Geoffrey Alan Sayers contains restrictive covenants.
- NOTE: Original filed.*
- 4 (07.07.2017) REGISTERED CHARGE dated 30 June 2017.
- 5 (07.07.2017) Proprietor: TSB BANK PLC (Scot. Co. Regn. No. SC095237) of Mortgages, P.O. Box 2230, Barnett Way, Barnwood, Gloucester GL3 9ED.

End of register



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Michael Burden

From: [REDACTED]
Sent: 28 March 2022 16:41
To: Michael Burden
Subject: Apologies

Dear Michael

I hope you are well.

I have just returned from annual leave today and wanted to email you and apologise for the confusion which took place surrounding 114 Vigilant Way. I emailed my colleague prior to going on leave stating that the recommendation should not be issued because I had contacted you regarding amending the application. Unfortunately it seems my colleague missed this.

Please accept my sincere apologies for the error on our part. I certainly didn't intend for the decision to be issued prior to hearing back from you. I hope the fact that a resubmission can be submitted for free within a year softens the blow. I can assure you that it was simply an admin error and we were not looking to manipulate the situation (although I can appreciate it looks that way).

Again I apologise and will look to ensure that an error like this does not take place again.

I look forward to working with you again in the future.

Kind regards

Faye

Faye Hobbs BA (Hons) MA
Team Leader (Development Management)
Gravesham Borough Council
Tel. 01474 33 73 17
Email: [REDACTED]

New Supplementary Planning Document - Householder Extensions/Alterations Design Guide SPD

The Council has adopted a Householder Extensions/Alterations Design Guide SPD. A copy of the SPD, is available on our website at <https://www.gravesham.gov.uk/home/planning-and-building/supplementary-planning-guidance/supplementary-planning-guidance>

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Michael Burden

From: Hobbs, Faye <faye.hobbs@gravesham.gov.uk>
Sent: 18 March 2022 08:42
To: Michael Burden
Subject: RE: Planning Application Reference 20210776 - 114 Vigilant Way, Gravesend

Dear Michael

I hope you are well.

I am writing further to your emails below and please accept my apologies for such a long delay. I have undertaken a new role and am in the process of getting my outstanding reallocated.

The application has been passed to a colleague to assess and unfortunately the application has been recommended for refusal. I wanted to write and give you a heads up that we won't be looking to support the application due to the amount of time which has passed. I appreciate this will be disappointing for your client.

However if the fence is stepped back slightly to allow some planting to soften its impact, then the Council would be happy to support the fence.

I look forward to hearing how you wish to proceed and will not determine the application until I hear back from you.

Kind regards

Faye

Faye Hobbs BA (Hons) MA
Team Leader (Development Management)
Gravesham Borough Council
Tel. 01474 33 73 17
Email. faye.hobbs@gravesham.gov.uk

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From: Michael Burden <info@jmdd.co.uk>
Sent: 14 January 2022 09:07
To: Hobbs, Faye <faye.hobbs@gravesham.gov.uk>
Cc: Glen (masterrichmond@sky.com) <masterrichmond@sky.com>
Subject: RE: Planning Application Reference 20210776 - 114 Vigilant Way, Gravesend

Morning Faye

Trust all's well & belated Happy New Year.

Have you managed to review messages below?

Ownership of the grass verge, according to KCC, is part of the land associated with 114 Vigilant Way, irrespective of what maps indicate. My client has requested this writing from KCC with no response received.

Have you managed to received confirmation in writing from KCC regarding ownership of the grass verge?

I'm out today, so could you update next week as to verge ownership and past planning application referring to the grass verge.

Trust all makes sense.

Kind regards

Michael

Michael Burden BSc (Hons) MRICS ACIAT
Chartered Building Surveyor

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HELP TO SAVE PAPER - THINK BEFORE YOU PRINT?

From: Michael Burden
Sent: 09 December 2021 07:35
To: Hobbs, Faye <faye.hobbs@gravesham.gov.uk>
Subject: RE: Planning Application Reference 20210776 - 114 Vigilant Way, Gravesend

Morning Faye

Trust all's well.

Have you managed to review messages below with regard to past planning application for boundary treatment and my client current application.

Any issues please don't hesitate to contact me and if I don't speak to you prior to Christmas, have a great time and I'll catch up with you in the new year.

Kind regards

Michael

Michael Burden BSc (Hons) MRICS ACIAT
Chartered Building Surveyor

JMDD
T: 01474 740299
E: info@jmdd.co.uk

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HELP TO SAVE PAPER - THINK BEFORE YOU PRINT?

From: Michael Burden

Sent: 12 November 2021 10:29

To: Hobbs, Faye <faye.hobbs@gravesham.gov.uk>

Subject: RE: Planning Application Reference 20210776 - 114 Vigilant Way, Gravesend

Morning Faye

Trust all's well.

Apologies for not being able to contact you sooner.

On my return from leave received a message from a former colleague – urgent request to undertake school surveys on the south coast prior to and during the whole of half term – an opportunity I couldn't say no too. This meant that all works had to be put on hold until my return to 'normal duties' this week – slowly catching up with workload.

Assumption made that this application is still 'live',

Received following message from my client.

Planning office are being Very harsh considering, i have asked the Highways and Council over the last 4 years regarding moving the fence but no mention of what they are stating. i have done some research myself and found and the following permitted planning applications, with no soft verge in sight or mention of one in the documents,

*1 Imperial way ref no 20151261
2 Leander driver ref no 20041148
90 Leander drive ref no 20200125*

this just 3 i am sure there are more,

since the fence has been in-place apart from the odd bit of rubbish, it has improved the hygiene of the street and the amount of locals walking pass who comment on how much it has improved the look and the cleanness of the street .

This is a massive cost and time implication on me just to show a bit of greenery, plus they would like me to maintain it and keep it clean!!

We are massively leaning on your expertise here Michael to help us win this case!

Kind Regards

Glen

There is a solution – just at the moment we don't know what the solution is.

With reference to the map below, one of my client issues is that, following numinous conversation with KCC, they (KCC) are still stating that the verge is part of the curtilage of 114 Vigilant and when asked to put this in writing, won't!!!!

Although the council have advised 'to amend the proposal' – question is 'What would be accepted'?

We can put forward design after design until an acceptable plan is agreed which seems a waste of time & money – therefore more clarification required – even if this means meeting you on site.

In addition – with regard to the 3 properties listed above, I would be grateful if you could find the time to review the applications and advise as to the merits of the application when related to my client application.

Trust all makes sense, however, should you wish to discuss the matter further, please do not hesitate to contact me.

Kind regards

Michael

P.S. - Update on nephew – move scheduled for 10th Dec – however not exchanged – should have been last week – apparently issues with solicitors computer systems down the line, as from yesterday, not resolved !!!!!

Michael Burden BSc (Hons) MRICS ACIAT
Chartered Building Surveyor

JMDD

T: 01474 740299

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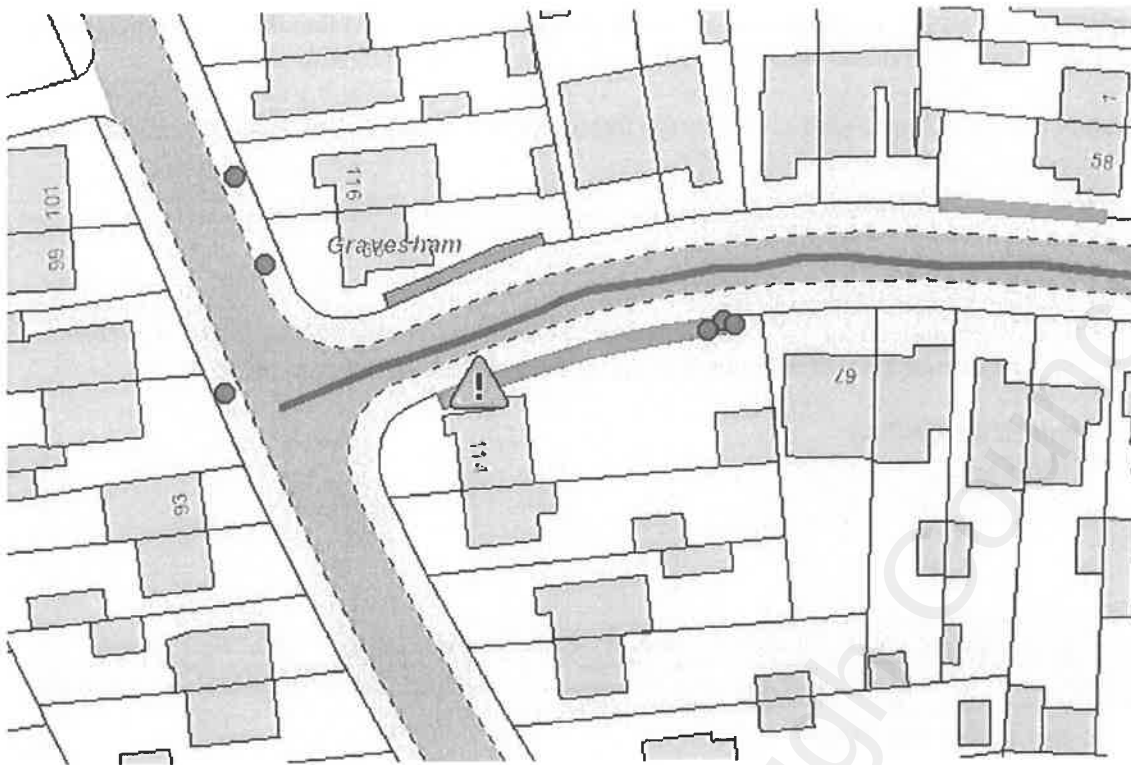
From: Hobbs, Faye <faye.hobbs@gravesend.gov.uk>
Sent: 04 October 2021 15:48
To: Michael Burden <info@jmdd.co.uk>
Subject: RE: Planning Application Reference 20210776 - 114 Vigilant Way, Gravesend

Dear Michael

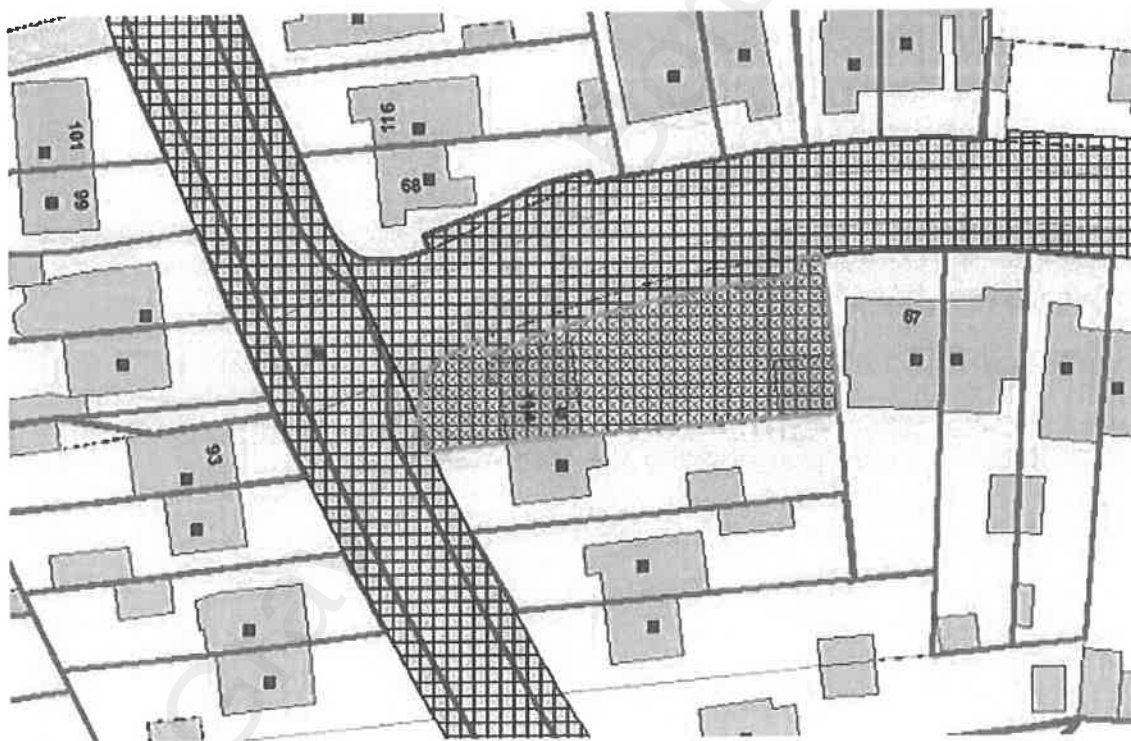
Thank you for your email.

Yes the move went really well thanks. I can sympathise with your nephew. I was caught up in a chain for 8 months only for it to fall apart. This time it went through in 8 weeks so I've experience both sides of it. Fingers crossed for your nephew.

In terms of the bullet points you summarised, I agree with them all with exception to the first point. The Council is not in a position to agree land ownership. It would be a matter for your client and KCC to resolve. However looking at the KCC map online (<https://www.kent.gov.uk/roads-and-travel/report-a-problem>) it would appear to be a KCC strip of landscaping as shown on the plan extract below;



I also added a KCC Highway layer to our planning system which again appears to indicate that the land is KCC.



Oddly, KCC have not raised an objection to the application, but I will double check this with them.

I can confirm that I do believe that there is some room for manoeuvre and am happy to keep the application running in an attempt to resolve the concerns I outlined in my initial email to you.

I fully appreciate your prior commitments in terms of revisions, and I will extend the deadline of the application until 22nd October which I hope is satisfactory. This is flexible if you need more time.

Enjoy your well-deserved weeks holiday and speak upon your return.

Kind regards

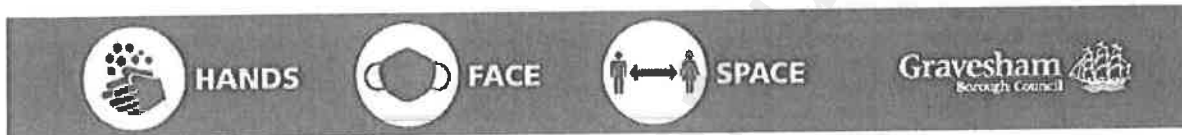
Faye

Faye Hobbs BA (Hons) MA
Team Leader (Development Management)
Gravesham Borough Council
Tel. 01474 33 73 17
Email: faye.hobbs@gravesham.gov.uk

Please note that I am currently working from home until further notice . If you wish to contact me please do so by email in the first instance.

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From: Michael Burden <info@jmdd.co.uk>

Sent: 04 October 2021 09:11

To: Hobbs, Faye <faye.hobbs@gravesham.gov.uk>

Subject: RE: Planning Application Reference 20210776 - 114 Vigilant Way, Gravesend

Morning Faye

Trust your house move went well. My nephew been trying to move for the last 8 months – if all goes well, move scheduled for mid-October – downside is, due to the time taken, he's lost out on the stamp duty holiday.

Correct in that the new is not what my client wanted to hear, however there are some positive to focus and on reading your message, summarize as follows :

- The Council agrees that the land belongs to 114 vigilant Way and not in the Council or Highway Agency ownership.
- Installed fence as its currently presented is not acceptable – to harsh
- Council will consider alternative treatment to the boundary
- Therefore, current application is 'still live' until and agreement treatment can be agreed.
- If no agreement reached, fence / planting to be reinstated as original.
- There is scope to reposition part of the installed fence and incorporated soft landscaping.
- Proposed need to be prepared for the Councils consideration.
- Current and future owners of 114 Vigilant Way would be responsible for upkeep of the soft landscaping between the public highway and the new boundary fence.

Believe there some room for manoeuvre so I will forward this message on to my client for his instruction.

Please be advise that my other nephew (There twins) is getting married tomorrow in deepest East Sussex and I'm out on site all day Wednesday in Hastings plus I'll finally having a week's holiday as from Friday 8th October – returning to work on Monday 18th October, therefore realistically I very much doubt whether alternative proposal will be ready this week. This time delay will allow my client to seek / consider alternative proposals with a view of moving forward from W/C 18/10/21.

Trust the above all makes sense and is acceptable in the interim.

Kind regards

Michael.

**Michael Burden BSc (Hons) MRICS ACIAT
Chartered Building Surveyor**

JMDD
T: 01474 740299
E: info@jmdd.co.uk

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HELP TO SAVE PAPER - THINK BEFORE YOU PRINT?

From: Hobbs, Faye <faye.hobbs@gravesham.gov.uk>
Sent: 01 October 2021 15:15
To: Michael Burden <info@jmdd.co.uk>
Subject: RE: Planning Application Reference 20210776 - 114 Vigilant Way, Gravesend

Dear Michael

Thank you for your email and please accept my sincere apologies for the delay in determining the application. I completed on buying a house much quicker than anticipated and it meant I had some earlier than expected time off work. Again, I do apologise.

I have made an assessment of the application and after discussing the application with a senior colleague, I'm afraid I must inform you that the Council will not be looking to support the application. The fencing is considered too extensive and harsh this suburban setting. The fence has resulted in a loss of valuable greenery along Britannia Drive which softens the appearance of the area. The estate is quite open plan in its design, and tall fences are not generally abutting the highway (or pavement) directly to reduce the density of the estate. There is often some form of setback.

It is our recommendation that the fence is set back to enable some planting to take place in front of the wall. Low level low maintenance planting will be acceptable, and we do not expect it to be as dense as the original hedge, but it not acceptable to have such an extensive boundary treatment without any form of soft landscaping. There may the scope for part of the fence to be stepped back, and part to remain as constructed – I am happy for you to explore that option with your client, but as it stands, some soft landscaping must be reintroduced.

I appreciate this is not the news you or your client were hoping for, but nonetheless hope I have given you some guidance on what would be acceptable.

I look forward to hearing how you wish to proceed in due course.

Kind regards

Faye

Faye Hobbs BA (Hons) MA
Team Leader (Development Management)
Gravesham Borough Council
Tel. 01474 33 73 17
Email. faye.hobbs@gravesham.gov.uk

Please note that I am currently working from home until further notice . If you wish to contact me please do so by email in the first instance.

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From: Michael Burden <info@jmdd.co.uk>
Sent: 30 September 2021 11:38
To: Hobbs, Faye <faye.hobbs@gravesham.gov.uk>
Subject: RE: Planning Application Reference 20210776 - 114 Vigilant Way, Gravesend

Morning Faye

Trust all's well.

Decision date was due 9th September, 21 days ago tomorrow therefore could please provide an update on progress.

Thanks & kind regards

Michael

P.S. – Out of the office all day tomorrow.

**Michael Burden BSc (Hons) MRICS ACIAT
Chartered Building Surveyor**

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E: info@jmdd.co.uk

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HELP TO SAVE PAPER - THINK BEFORE YOU PRINT?

From: Michael Burden
Sent: 23 September 2021 07:04
To: Hobbs, Faye <faye.hobbs@gravesham.gov.uk>
Subject: RE: Planning Application Reference 20210776 - 114 Vigilant Way, Gravesend

Morning Faye

Trust all's well.

Understand your back at work as from 20th September, therefore could you please advise as to current position of the application.

Thank you & kind regards

Michael

Michael Burden BSc (Hons) MRICS ACIAT
Chartered Building Surveyor

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T: 01474 740299
E: info@jmdd.co.uk

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HELP TO SAVE PAPER - THINK BEFORE YOU PRINT?

From: Michael Burden
Sent: 15 September 2021 08:42
To: Hobbs, Faye <faye.hobbs@gravesham.gov.uk>
Subject: RE: Planning Application Reference 20210776 - 114 Vigilant Way, Gravesend

Morning Faye

Trust all's well.

Further to messages below regarding extension of time until the 9th September for determination, could you please advise as to current position of the application.

Thank you & kind regards

Michael

Michael Burden BSc (Hons) MRICS ACIAT
Chartered Building Surveyor

JMDD
T: 01474 740299
E: info@jmdd.co.uk

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HELP TO SAVE PAPER - THINK BEFORE YOU PRINT?

From: Hobbs, Faye <faye.hobbs@gravesham.gov.uk>
Sent: 19 August 2021 15:48
To: Michael Burden <info@imdd.co.uk>
Subject: RE: Planning Application Reference 20210776 - 114 Vigilant Way, Gravesend

Thank you Michael, much appreciated.

Kind regards

Faye

Faye Hobbs BA (Hons) MA
Team Leader (Development Management)
Gravesham Borough Council
Tel. 01474 33 73 17
Email. faye.hobbs@gravesham.gov.uk

Please note that I am currently working from home until further notice . If you wish to contact me please do so by email in the first instance.

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From: Michael Burden <info@imdd.co.uk>
Sent: 19 August 2021 11:25
To: Hobbs, Faye <faye.hobbs@gravesham.gov.uk>
Subject: RE: Planning Application Reference 20210776 - 114 Vigilant Way, Gravesend

Morning Faye

Agree to extension of time as requested.

Should you require any further information please don't hesitate to contact me.

Kind regards

Michael

Sent from my Windows 10 device

From: Hobbs, Faye

Sent: 19 August 2021 08:42

To: Michael Burden

Subject: Planning Application Reference 20210776 - 114 Vigilant Way, Gravesend

Dear Michael

I am writing to you in relation to the above application. I hope you are well.

Would it be possible to agree an extension of time for the application please, as I'm afraid I haven't had an opportunity to review the application yet. If you could confirm by return of email an extension of time until 09 September I would be most grateful.

I look forward to hearing from you soon.

Kind regards

Faye

Faye Hobbs BA (Hons) MA
Team Leader (Development Management)
Gravesham Borough Council
Tel. 01474 33 73 17
Email: faye.hobbs@gravesham.gov.uk

Please note that I am currently working from home until further notice . If you wish to contact me please do so by email in the first instance.

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Michael Burden

From: Michael Burden
Sent: 22 March 2022 08:55
To: Henry, Genna
Cc: Hobbs, Faye
Subject: RE: 114 Vigilant Way 20210776
Attachments: RE: Planning Application Reference 20210776 - 114 Vigilant Way, Gravesend

Morning Genna / Faye

Further to message below could you please explain after agreeing to an extension of Time and about to issue amended drawing with the fence line stepped back as requested by Faye Hobbs (See attached emails) a refusal notice has been received at 8.18 am.

Attached is an email drafted out on Saturday in response from the message from Faye Hobbs advising that should the fence be stepped back; the application would be supported. My client advised yesterday to proceed with the proposed stepped back fence line – therefore I don't understand the timing or why the notice was issued before the amended drawings issued.

Please could provide a response as to why the notice was issued ahead of time and how do you propose to move forward

Could you please contact me on 01474 740299 urgently.

Trust all makes sense and I await your phone call.

Kind regards

Michael

Michael Burden BSc (Hons) MRICS ACIAT
Chartered Building Surveyor

JMDD
T: 01474 740299
E: info@jmdd.co.uk

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HELP TO SAVE PAPER - THINK BEFORE YOU PRINT?

From: Michael Burden
Sent: 21 March 2022 08:29
To: Henry, Genna <Genna.Henry@gravesham.gov.uk>
Cc: Hobbs, Faye <Faye.Hobbs@gravesham.gov.uk>
Subject: RE: 114 Vigilant Way 20210776

Morning Genna

Trust all's well.

Thank you for the update and I agree to the extension of time as requested.

In addition, received an email from your colleague Faye Hobbs on Friday 18 March advising that this project has been passed on and although recommendation is for refusal, it's been suggested that a 'stepped back fence line' would be supported by the Council which has been forward on to my client for his instruction.

As soon as I hear back I'll contact you advising how we wish to proceed.

Kind regards

Michael

Michael Burden BSc (Hons) MRICS ACIAT
Chartered Building Surveyor

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T: 01474 740299
E: info@jmdd.co.uk

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HELP TO SAVE PAPER - THINK BEFORE YOU PRINT?

From: Henry, Genna <genna.henry@gravesham.gov.uk>
Sent: 21 March 2022 08:06
To: Michael Burden <info@jmdd.co.uk>
Subject: 114 Vigilant Way 20210776

Dear Mr Burden,

I am writing with regards to the above application.

The case has been recently been reallocated to myself and seeking an extension of time to determine the application.

Therefore, I am writing to request and extension of time until 1 April 2022. Please could you confirm in writing whether this is deemed acceptable? We'll be aiming to determine the application earlier, where possible.

Kind regards

PLEASE NOTE I am working at home until further notice. Should you wish to contact me please send me a direct email in the first instance with your contact details for me to respond to your request.

Genna Henry BA (Hons) MSc
Senior Planning Officer
Planning and Regeneration Services
Gravesham Borough Council
Email: genna.henry@gravesham.gov.uk

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Gravesham Borough Council

Michael Burden

From: Michael Burden
Sent: 10 June 2022 14:50
To: Brown, Ian
Cc: Hart, Richard
Subject: RE: 21/00061/EN - 114 Vigilant Way

Afternoon Ian

Thank you for your further response below.

I believe there have been misunderstanding so please let me explain our position.

We know that once a refusal has been issued this can't be rescinded unless by appeal to the Secretary of State.

What we have always tried to do is to indicate that the delegated report and subsequent refusal notice was based on incorrect and misleading information, consultation period / procedures not followed while highlight the fact that previous application for boundary treatment works have been approved and seek clarification as to why previous application were approved and my client application recommended for refusal.

We also tried to seek clarification, in that should we submit a revised application, focusing in on the incorrect / misleading information contained within the delegated report when compared with the delegated reports on the approved boundary applications, would this receive, in principle, a favourable response .

It would not be unreasonable to suggest that once the application was validated, it just sat there and was 'rushed through and signed off' nearly one year from the date of validation' at the last minute and prior to Planning Officer requesting an extension of time for determination of the application after the delegated report was signed off by the Planning Office and Team Leader!! All of which suggesting a lack of due diligence during the extended consultation period

It's disappointing that, during the extended consultation period and the issuing of the refusal notice, we received limited correspondence on this matter from Planning Officers other than yourself, who focuses on the presumed breach of planning control – which begs the question – if the delegated report for 114 Vigilant Way had taken into consideration the information / conclusions within the delegated reports for the approved boundary treatment application – would Planners reach a different conclusion – i.e. approval.

If the answer is yes (Difficult to justify the same conclusion of refusal given the evidence) begs the question – if approved – where's the breach in planning ?

It's a shame that no-one from the Planning Department has the courtesy to engage directly with us, instead of leaving it to you, as I'm sure this issue would have been resolved last year.

The construction of the approved side and rear extension is due to commence shortly, and my client is of the opinion that he had been forced to amend the plan to show a 'stepped back' fence line as verbally agreed with planner in March 2022 – as an appeal to the Secretary of State may be too time consuming and not fit in the the construction programme.

Therefore, reluctantly we advise that an amended application has been submitted as the Gravesend Planning Department as part of householders right to have a 'free go' to address planning concerns.

With an amended application submitted, construct of the side / rear extension due to commence shortly, we advise that the boundary fence will be left in its current position until determination of the amended application / ground & construction work for the proposed side / rear extension.

I trust this meets with your approval in the interim.

Kind regards

Michael

Michael Burden BSc (Hons) MRICS ACIAT
Chartered Building Surveyor

JMDD
T: 01474 740299
E: info@jmdd.co.uk

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HELP TO SAVE PAPER - THINK BEFORE YOU PRINT?

From: Brown, Ian <ian.brown@gravesham.gov.uk>
Sent: 27 May 2022 15:08
To: 'masterrichmond@sky.com' <masterrichmond@sky.com>
Cc: Michael Burden <info@jmdd.co.uk>; Hart, Richard <richard.hart@gravesham.gov.uk>
Subject: 21/00061/EN - 114 Vigilant Way

Good afternoon

Thank you for your further response to the refusal of application 20210776 for: Retention of Highway land as part of the residential curtilage and retention of the boundary fence. I understand your frustration as you appear to have conducted the works with the best of intentions, but the decision is not based on ownership, establishing ownership of land is not always clear and should be resolved by a private legal process. As stated in my email last week the ownership of the land is not a material decision for the determination of the submitted application, other than service of notice of all parties who may have an 'interest' in the land during application.

For absolute clarity I will make the planning situation very clear. The refusal cannot be changed and the decision stands and therefore the development works as described on application 20210776 are unauthorised and could become subject to enforcement proceedings.

If you do not agree with the decision you can appeal against the Council's decision by submitting an application to the Planning Inspectorate. Alternatively, a revised application could be submitted that deals with the reasons for refusal of the determined application; on an informal officer opinion, there appears to be little scope for alteration works that would deal with the reasons for refusal. Each application submitted to the council is considered on its individual merits and just because in the past someone has been provided approval for similar development works, does not mean the same decision will be made now – policies and circumstances change.

Any complaint submitted by you regarding the way the council made its decision in determining your application will not alter the refusal, the best way of dealing with this is by asking for an appeal.

It will not be useful to enter into further discussion of resolving the breach of planning control other than submission of a revised application or an appeal – please note the submission of this is time limited (14 June 2022)

I will be happy to clarify any of the above if necessary.

Kind regards

Ian

Email ian.brown@gravesham.gov.uk
M: 07874 883930 (Mon-Fri 9 to 5 Only)

Mr I Brown
Planning Enforcement Officer
Gravesham Borough Council
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Gravesham Borough Council

Michael Burden

From: Brown, Ian <ian.brown@gravesham.gov.uk>
Sent: 20 May 2022 11:02
To: Michael Burden
Cc: 'masterrichmond@sky.com'; Hart, Richard; Hobbs, Faye
Subject: 21/00061/EN - 114 Vigilant Way

Good morning

Thank you for the latest email dated 16 May 2022 regarding the above premises and the refusal recorded on decision notice 20210776 for: Retention of Highway land as part of the residential curtilage and retention of the boundary fence.

I note your clients rights to make a formal complaint regarding the way a determination was made and specifically if the Council followed policy and procedure. As stated and recognised by you this will not alter or change the decision made, this can only be dealt with by means of by either submitting an appeal or submitting a revised application that effectively deals with the reasons for refusal recorded on the decision notice for application 20210776.

The ownership of the land is not a material decision for the determination of the submitted application, other than service of notice of all parties who may have an 'interest' in the land during application – I note the application 20210776 was signed at 'Certificate B' serving notice on Kent County Council (KCC) Highways.

The material facts of requesting an application for the erection of the fencing were twofold:

The fencing has been placed adjacent to the highway and is over a meter high; this does not conform with permitted development - Class A.1, Part 2 of Schedule 2 Town and Country (General Permitted Development) Order 2015 (as amended). It has also enclosed highway land into the residential curtilage; this is a different concept from 'ownership', the highway land could be owned by third parties. During the determination of the submitted application KCC Highways were consulted and below is an extract from their letter which explains the concept well:

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

I hope this clarifies the need for approval for fencing works - it requires approval because it does not conform with permitted development and enclosed 'highway land' (irrespective of 'ownership.') I will continue to monitor for submission of an appeal or revised application.

Kind regards

Ian

Email: ian.brown@gravesham.gov.uk
M: 07874 883930 (Mon-Fri 9 to 5 Only)

Mr I Brown
Planning Enforcement Officer
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Michael Burden

From: Michael Burden
Sent: 16 May 2022 08:50
To: Brown, Ian; Richard Hart ; Faye Hobbs; Henry, Genna
Cc: 'masterrichmond@sky.com'
Subject: RE: 21/00061/EN - 114 Vigilant Way - Planning Application Ref: 20210776

Morning Ian

Trust all's well.

Thank you for your response email below dated 5th May 2022.

After consideration and on instruction from my client we have the following observation / comments for the Planning Departments considerations.

From the message dated 5th May we can only presume that the council appear to have totally missed the point and not addressed any of the issues raised in our email dated 21st April 2022, given the initial incorrect information regarding ownership of the grass verge begs the question – was there a need to submit an application in the first place.

Nor have you given any positive solution to move forward other than for my client at his expense to address the 'breach in planning control'.

We understand that once a determination on an application has been decided, it can't be altered or changed, that's not the issue in question.

The issues that needs to be addressed before this project can move forward is the ownership of the grass verge.

Given that the grass verge is contained within the curtilage of 114 Vigilant Way, as all published information appears to support. with no information provided by the planning department to support their claim that that the submitted application tilted Retention of Highway land as part of the residential curtilage and retention of the boundary fence is factually incorrect thereby raising the obvious questions of:

1. If the land is in the ownership of 114 Vigilant Way
 - a. Why was my client informed that the land was 'Highway's Land'?
 - b. Why was my client told that a planning application had to be submitted to 'incorporated highways land'?

To summarize

- Kent highway advised that they do not own the grass verge
- Gravesend council have advised that the land is not theirs.
- Property deeds appear to indicate the land is associated to 114 Vigilant
- Highway published list of owner land / property support the fact that the land is in the curtilage of 114 Vigilant Way
- Hence you erected a fence on what is believed to be our land.

Once erected:

- Message received from the council (Ian Brown) implying that the land is 'Highway Land'.
- Council advised - permission required from Kent Highways together with a planning application.
- Hence the planning application.
- Refusal dated 22nd March 2022.

- Hence our communications resulting emails
- Email dated 5th May 2022 asked that my client either
 1. Replace the fencing back to its original position
 2. Resubmit a revised application (With the fence moved back 450 mm)
 3. Appeal to the Secretary of State

In response we would advise:

- The above shows that the original reason for the application was based on incorrect information.
- No evidence has been presented by the Council / Ian that the land is Highways land.
- No acknowledgement from the Council that there could be a mistake in
 1. Ownership of the grass verge
 2. Consultation period / lack of information

Until the council acknowledges that the grass verge is in the curtilage of 114 Vigilant Way (which it appears to be and with no evidence to the contrary), there no point is submitted the same application with the fence position as it currently is as it will get refused again.

Option 1 – Reinstated is not an option at this stage due to the dispute in the ownership of the grass verge, the need to submit an application in the first instance. In addition, reinstating the fence line has implication with regard to the approved side and rear extension.

Option 2 – My could submit a revised application with the fence line stepped back, however this would also require 'sight line' adaption as suggested in the delegate report i.e. Fence line angled at 45° for a distance of 2 m. – If revised application accepted – cost implication to relocate the fence.

In addition, although the land is part of the curtilage of 114 Vigilant – why should my client have to submit a revised application to erect the same fence which is currently already on his land, given that there does not appear to be any 'breach in planning control' as the land has always been within the curtilage of 114 Vigilant and that the initial correspondence from GBC incorrectly advising that the grass verge is owned by KCC Highways?

WAY FORWARD

It appears to me that there's an obvious way forward that would satisfies all parties

1. The council to acknowledge the the grass verge is in the curtilage of 114 Vigilant Way
 - a. See item 3b below
2. Resubmit the original proposal with amendment to sight line as indicated in the original delegated report
3. Subsequent delegated report to acknowledge:
 - a. Previous applications to reposition fence line to boundary with the public highway have been approved
 - b. That the grass verge is in the curtilage of 114 Vigilant Way

If option 2 / way forward not an option the council cam accept and work with – this just leave option 3 – an appeal to the Secretary of State – which would include a Planning Statement explaining how & why the original application was based on council supplied incorrect information while justifying why the original application should be accepted, with amended to the fence sight lines as previously advised together with the appropriate correspondence.

Please note that my client reserves his right of lodging a formal complaint with GBC and that we acknowledge the timeline regarding an appeal to the Secretary of State of 12 weeks from the decision notice date of 22nd March 2022.

The most annoying aspect is that if the Council listened prior to the during the application process, and engaged in positive communication, we would not be in the position we are!!!

Trust above all makes sense and apologies for the long message and we wait on your positive response.

Kind regard

Michael

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Chartered Building Surveyor

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HELP TO SAVE PAPER - THINK BEFORE YOU PRINT?

From: Brown, Ian <ian.brown@gravesham.gov.uk>
Sent: 05 May 2022 17:03
To: Michael Burden <info@jmdd.co.uk>
Cc: 'masterrichmond@sky.com' <masterrichmond@sky.com>; Hart, Richard <richard.hart@gravesham.gov.uk>
Subject: 21/00061/EN - 114 Vigilant Way

Good afternoon

Thank you for response dated 21 April 2022 regarding the refusal recorded on decision notice 20210776 for: Retention of Highway land as part of the residential curtilage and retention of the boundary fence.

We note that your client is unhappy with the way the decision was made, if you and your client are not satisfied that the council did not reach its decision according to policy and procedure you can make a complaint via the corporate complaint procedure: [Make a Complaint Overview \(gravesham.gov.uk\)](https://www.gravesham.gov.uk/make-a-complaint)

However, the determination of the submitted application cannot be changed or withdrawn as an outcome of any complaint submitted. Your client must urgently deal with the breach of planning control by either submitting an appeal or submitting a revised application that effectively deals with the reasons for refusal recorded on the decision notice for application 20210776. Please note any appeal must be submitted within 12 weeks of the date of the decision which was 22 March 2022.

I would be grateful if you could urgently indicate how your client wishes to proceed in terms of the refusal, any complaint made will be considered separately.

Kind regards

Ian

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From: Michael Burden

Sent: 21 April 2022 09:56

To: Brown, Ian <ian.brown@gravesham.gov.uk>; Richard Hart <Richard.hart@gravesham.gov.uk>; Faye Hobbs <Faye.hobbs@gravesham.gov.uk>; Henry, Genna <Genna.Henry@gravesham.gov.uk>

Cc: 'masterrichmond@sky.com' <masterrichmond@sky.com>

Subject: RE: 21/00061/EN - 114 Vigilant Way - Planning Application Ref: 20210776

Morning Ian / All

Ian – Thanks you for your messages below and apologies for not having been able to respond to your message sooner.

There been a number of issues concerning this project from the start which you may not be aware off; from the initial communication advising that planning is required, due to the apparent incorrect assumption that the 'grass verge is 'highway land', previous like projects approved; through to the determination process / time period, all of which should off had a direct bearing bearing of the project / decision notice.

ALL - On instruction from my client the following summary of critical events together with past email communications (see attached) has been prepared.

In summary,

- Agreement reached with Faye Hobbs that the boundary fence was to be stepped back on Friday 18th March 2022 before the project was handed over to Genna Henry
- Email received on 21st March requesting extension of time (EoT) to 1st April – which was accepted
- Drawings amended and about to be submitted
- Refusal letter received on 22nd March 2022 dated **17th March 2022** !!!!!!! – before the requested EoT.

On 12th November we issued an email to planners advising of 3 applications for reposition of the boundary fence which had been approved. One in particular is a mirror image of our proposals Ref 20151261 – 1 Imperial Way.

Application Ref: 20151261

ERECTION AND INCORPORATE LAND INTO RESIDENTIAL GARDEN & GARAGE CANOPY OF 1 IMPERIAL DRIVE, GRAVESEND, KENT DA12 4LL

Boundary fence aspect of this application mirrors that of the application for 114 Vigilant Way.

To date no one has had the decency to write back explaining why these application has been approved whereas the application for 114 Vigilant Way was refused and there's no mention in the delegated report of previously approved applications.

What evidence can the council supply that the previously approved boundary fence applications were indeed considered as I can see no correspondence from planners from 12th November on this specific subject which strongly suggests that the applications weren't considered and that the application was quickly 'signed off' when passed on to another planner (See attached emails)

Decision notice for 1 Imperial Way states in the INFORMATIVE section:

3 KENT HIGHWAYS SERVICES

It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highways Authority. The application must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the application to contact Kent Council Council Highways and Transportation to progress this aspect of the works prior to commencement on site.

4 DEVELOPMENT TO BE ON LAND IN APPLICANTS CONTROL

Whilst it would appear from the application that the proposed development is to be entirely within the curtilage of the dwelling, care should be taken upon the commencement and during the course of building operations to ensure that no part of the development, including foundations, encroaches on, adjoining, under or over adjoining property. It should be noted that this permission relates solely to works included within the application site.

As previously advised, my client has been in contact with KCC regarding ownership of the 'grass verge' numerous times over the past 4 years – KCC only response is that they (KCC) consider the land to be in the curtilage of 114 Vigilant Way and not their responsibility – responsibility for the boundary lies with the property owner.

When KCC statement is taken in relationship to informative notes 2 & 3 on the decision notice for application 20151261 (Highlighted text above) brings into question a number of issues:

Ownership of Grass / Road Verge

From the message below suggests that the disputed land is in the ownership of KCC whereas KCC dispute this.

Title plans show the 'red boundary line' outside of the curtilage of the 114 Vigilant Way

On KCC Highways and Transportation web page you can download an excel spreadsheet entitled *Kent County Councils Land and Property Holding*. – there is no record of a grass / road verge associated with / adjacent to 114 Vigilant Way – in fact there are no records of any grass / road verges or miscellaneous land within the Riverview Park area.

- KCC spreadsheet just adds further weight to the conclusion that the disputed land is in the ownership of 114 Vigilant Way.

As the overwhelming evidence shown that the land is within the curtilage of 114 Vigilant Way – is the repositioned of the owner boundary fence an actual planning?

- **NOTE:** This application started when my client received correspondence from GBC Planning / Enforcement Officer advising that the boundary fence was illegal as it encroached on KCC land.
- From the evidence – this appears to be an incorrect statement.

COMMENTS ON DELEGATED REPORT – 114 Vigilant Way

No comments received from KCC, 11 No. neighbouring properties nor Ward Councillors.

GBC Highways and advised that a pedestrian visibility splay to rear access

Officer's Analysis

Design, Character and Appearance (Summarized)

LPA consider that the original hedging served a specific purpose by adding amenity value from soft landscaping – if fact all the hedge did was a dumping ground for collecting rubbish, dog / fox mess, not maintained by either GBC or KCC (again suggesting the land is in the curtilage of 114 Vigilant Way) and was a constant eyesore.

LPA consider the reposition boundary fence to be overbearing and over dominant and to the detriment of visual amenity – just an opinion and unfortunately doesn't explain how reinstatement of the soft landscaping would enhance the 30 metres of footpath when all the rubbish / debris starts to tangled up in the planting.

- If the fence is reinstated to its original position - will GBC maintain this area going forward?
- Can GBC explain how to prevent the rubbish, dog / fox mess from accumulating and how tidy they are up
 - Will GBC Highway / Refuse departments address this?

Parks & Highways

Text suggests that the application would be recommended for approval upon receipt of further information regarding the inclusion of pedestrian visibility splay.

Text also states – However, given the above assessment, the application is recommended for refusal and therefore these details will not be necessary.

- As correspondence received regarding the GBC Highways request for a splay – we have no opportunity to address this concern
- If my client had been given the opportunity, we may not be in the position we are in.

Other Matters

Although the report states that the disputed land is subject to Enforcement Investigation – given that this application all stated on the assumption that the disputed land was owned by KCC, no evidence has been given as to what investigation were taken to substantiate this claim.

All the documentation / evidence to date overwhelmingly suggest that the disputed land is associated with the property known as 114 Vigilant Way.

LPA disagree with our assessment of the ownership issue

Amenity of Future Occupiers / Neighbouring Amenity

The report states that the proposals to reposition the boundary wall safeguards both the amenity of future occupiers and neighbour amenities and are in accordance with Policy CS19.

Delegate report appears to lean heavily on the design principles and the interpretation of the guidance notes of CS19 for the development of residential developments. However, we would suggest that these design principles are not necessarily interchangeable when applied to existing dwellings / extension / boundary treatment as the constraints of the existing structure, to a degree, determines the design of the proposed works.

This begs the question – if on one hand the proposal safeguard owner & neighbour amenities and in accordance with CS19 – why on the other why was the proposal refused on what appears to be reason associated with CS19?

In addition, in the report's Conclusion & Recommendation it states: *(For detailed conditions / reasons for refusal and informatives. See draft Decision)*

I cannot find any draft decision, nor can I find the date when the draft report was written, I also note the the Delegated Report is revision 3

CONCLUSION:

- The reason why the proposal was submitted in the first instance, on evidence compiled to date appears to be based on incorrect and misleading information
- No opportunity to address concerns other than on the email from Faye Hobbs on Friday 18th March – date after the decision notice was signed by the reappointed case officer.
- No consideration / response as to previously approved boundary fence works
- Lack of communication between officers

It would appear that once the application was validated, the application stalled with no forward momentum until the change of personnel – mid March 2022.

Given the inconsistencies with dates, strongly suggests this application was 'left on the shelf' and quickly signed off ahead of the end of the financial year without any due diligence as to the circumstances of the application.

GOING FORWARD

First Item

Suggest the first item is a response from the Team Leader (Richard Hart) explaining:

- Reason why there appears to be a breakdown in communications
- Why weren't we given the opportunity to address GBC Highways concerns regarding the pedestrian visual splay
- Why the delegated report appears to accept the proposals with reference to 'Amenity of Future Occupiers & Neighbouring Amenity' with regard to CS19 then refusal the proposal – based on CS19!!!
- As a precedent has been set with reference to planning application 20151261 why then has this proposal been refused when:
 - Both applications had a 'road verge' with a degree of planting (In the case of 1 Imperial Drive some 24 Lm, 114 Vigilant Way some 30Lm)
 - Both applications proposals were to reposition the boundary fence to the junction with the public highway
 - Both applications – no additional soft landscaping
 - None requested for 1 Imperial Drive.
- Although update requested on progress, explain why no feedback received until the day after the delegated report was signed.

Second Item

- The fence needs to be repositioned to allow for the construction of the approval side / rear extension and to allow for the necessary drainage works
 - The reasons why the fence had to be moved and the restriction in our proposed compromise of 'stepping back the fence line by some 450 mm' appears to be accepted by the planners
 - However, the proposal to step back the fence was made on the understanding that no decision had been made, whereas in reality the decision had been made a couple days prior to our offer –
 - Our offer has therefore been temporarily suspended.
- Three Options
 - Re-submit the original application
 - Submit a second application with the stepped back fence line
 - Additional time / cost to my client
 - Appeal to the Secretary of State
- Simplest solution would be to re-submit the original drawings / application with amendment to cover the requested pedestrian visibility splay

Question is –

- Given the apparent lack of communication between officers, misinformation on ownership of the grass verge, lack of due diligence when assessing this application, no apparent acknowledgement of approved boundary treatment work not dissimilar to the proposed works at 114 Vigilant Way, with the amendment to cover the requested pedestrian visibility splay and reduction in fence height back to the original 1.9 m –
 - will the revised scheme be look upon in a more proactive and favourably
 - Is a completely new application required with a stepped back fence line of 450 mm

To say my clients are slightly annoyed is an understatement, they feel that given 3 properties with similar works previously approved, lack of communication / correspondence, especially 'the changeover dates of Planning Officers', misleading emails at the time of the 'officers changeover' together with an incorrect assumption as to the ownership of the grass verge and apparent no consideration as to the previously approved boundary works together with the time period from validation of the application to the date on decision notice.

Given all of the above / attached my client are of the opinion that their proposals have been completely overlooked, treated unfairly and the only reason why the proposals were 'signed off' was to 'clear the books' quickly because of the lack of a decision within the specified time period for consultation of 8 weeks; with no action taken during or after the 8 week consultation period and no request for an Extension of Time (EoT) to the consultation period together with – I generally believe they have valid concerns as to their treatment and the handling of their application.

Commencement of the approved extension has been further delayed, now scheduled to start late summer / early autumn to allow, hopefully to resolve this issue as we do need to move forward and to that affect my client are willing to discuss, face to face with you as to options.

Therefore, my clients have a decision to made as to how they wish to proceed, whether to appeal to the Secretary of State or submit another application, therefore a direct response from yourself as to why this issue occurred in the first instance and your positive thoughts on how to move forward to achieve a satisfactory conclusion would be greatly appreciated.

In the meantime, as my client considers that a dispute has arisen, the fence will stay in its current location until this issue has been satisfactorily resolved.

Trust the above and attached all makes sense and that my clients can expect a full response in the near future from the Team Leader – one person to take single point responsibility – say within 2 weeks of this message – by Thursday 5th May 2022.

Kind regards

Michael

Michael Burden BSc (Hons) MRICS ACIAT
Chartered Building Surveyor

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HELP TO SAVE PAPER - THINK BEFORE YOU PRINT?

From: Brown, Ian <ian.brown@gravesham.gov.uk>
Sent: 21 April 2022 08:16
To: 'masterrichmond@sky.com' <masterrichmond@sky.com>
Cc: Michael Burden <info@jmdd.co.uk>
Subject: FW: 21/00061/EN - 114 Vigilant Way

Good morning

I note we have not received a response from you regarding the below email?

Could we have an urgent response of your intentions within 2 weeks of this message – by Thursday 05 May 2022.

Whilst the Planning Authority would seek to resolve the breach of planning control by cooperation initially, without an indication to either urgently submit an appeal or reinstate the unauthorised boundary works within a reasonable and definitive timeframe, we will make immediate consideration of formal enforcement proceedings.

You should appreciate the seriousness of the situation, which could ultimately result in this Authority serving on you an Enforcement Notice under Section 172 of The Town & Country Planning Act 1990 (as amended). The penalty on summary conviction for non-compliance with an Enforcement Notice is a fine of up to £20,000 at a Magistrates Court and is a criminal offence.

I look forward to your urgent response to perhaps resolve the matters in lieu of formal enforcement proceedings.

Kind regards

Ian

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From: Brown, Ian
Sent: 30 March 2022 09:34
To: 'masterrichmond@sky.com' <masterrichmond@sky.com>
Cc: 'info@jmdd.co.uk' <info@jmdd.co.uk>
Subject: 21/00061/EN - 114 Vigilant Way

Good morning

I note the application submitted on reference 20210776 for: Retention of Highway land as part of the residential curtilage and retention of the boundary fence has been refused on 22 March 2022. For clarity I

have attached a copy of the decision notice and delegated officer report (this provides detail to the reason for refusal) to this message.

At this initial stage I would seek an urgent update of your intentions. As the works are unapproved they form a breach of planning control and you will either need to reinstate the boundary works to the former position within a reasonable and definitive timeframe, or alternatively submit an appeal as described on the decision notice under the section 'NOTIFICATION TO APPLICANT'. As this is a householder application you will have 12 weeks to submit an appeal, starting from the date of the decision – 22 March 2022.

I look forward to your update on your intentions, this message has been copied into the agent who submitted the application on your behalf.

Kind regards

Ian

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