

THE HIGHLAND COUNCIL

**CAITHNESS, SUTHERLAND & EASTER ROSS PLANNING
APPLICATIONS COMMITTEE – 22 September 2009**

Agenda Item	6
Report No	45/09

**ENFORCEMENT ITEM
50 KIRKSIDE ALNESS**

Report by Area Planning and Building Standards Manager

SUMMARY

Description : Unauthorised timber screen fence at 50 Kirkside, Alness

Recommendation - SERVE ENFORCEMENT NOTICE

Ward : 7 – Cromarty Firth

Development category : Local

Pre-determination hearing : Not applicable

1. BACKGROUND

- 1.1 In late 2006 it was brought to the attention of the Planning Authority that a high fence had been erected to the front of a mid-terraced property at 50 Kirkside in Alness.
- 1.2 A letter was sent to the householder on 6 November 2006 advising that as the fence was over 1m in height and located adjacent to a footpath it required planning permission. The letter recommended that the fence be lowered to no more than a metre or that a retrospective application for planning permission be submitted for the Council's formal determination, although it was pointed out that such application, if for the fence at its current height, would be unlikely to receive officer support.
- 1.3 No response was received and a further letter was sent dated 11 December 2006. This generated a telephone response from the householder who eventually arranged a meeting to discuss his wider proposals to carry out alterations and extensions to the house. At this meeting, held in May 2007, the householder indicated that he would be lodging an application for planning permission to cover a number of alterations to his house, including the fence, in early course. No such application has been received.
- 1.4 In May 2009 a message was received from Housing Services indicating that they had received a complaint from Kirkside Residents Group complaining about the height of the fence at 50 Kirkside. A letter was subsequently sent to the householder concerned on 25 June 2009 reminding him of the previous advice offered. No response has been received.

2. PLANNING APPRAISAL

- 2.1 The fence at its present height requires planning permission. For explanation, fences and walls have permitted development rights up to a maximum height of 2m except within 20m of a road or footpath where the height limit is 1m only.
- 2.2 The householder at 50 Kirkside has been told on numerous occasions, dating back to November 2006, that the fence should either be removed or reduced in height to no more than 1m. He has also been advised that it would be open to him to submit a retrospective application for planning permission for the fence at its present height for the Council's formal consideration. He has chosen not to take any action.
- 2.3 It is therefore for the Planning Authority to determine whether it is reasonable to pursue enforcement action in such circumstances. In this respect, the fence has been erected around the front garden of a mid-terraced house where all existing front fences are less than a metre in height. Therefore notwithstanding the direct impact of the fence on the immediate adjoining properties, there is also an issue of impact on wider public amenity. In this respect, the Kirkside housing development has been designed with high back garden fences and low fences to the fronts of the properties. On the opposite side of the public footpath which adjoins the site, the back gardens of the properties to the immediate south have a high close-boarded timber fence running along this boundary. It is therefore important that the fences on the other (north) side of the path remain lower to allow light and visibility to the footpath, retaining a safe and welcoming pedestrian route. The existing fence also appears unsightly and out of place within the context of adjoining lower fences.

3. CONCLUSION

- 3.1 In this case, the householder involved has been given a considerable period of time to regularise the situation and has chosen not taken any action.

It is considered that the fence at its current height is unsightly and detrimental to wider public amenity. It also has an unacceptable direct impact on the light and amenity previously enjoyed by the adjoining properties of 49 and 51 Kirkside. If the Council decides to accept the fence at its current height it is submitted that this would set an undesirable precedent which may lead to the erection of high fences along the remainder of this footpath. This would result in the creation of an enclosed dark public space, making it unattractive to pedestrians and more likely to attract crime. This is not in the wider public interest.

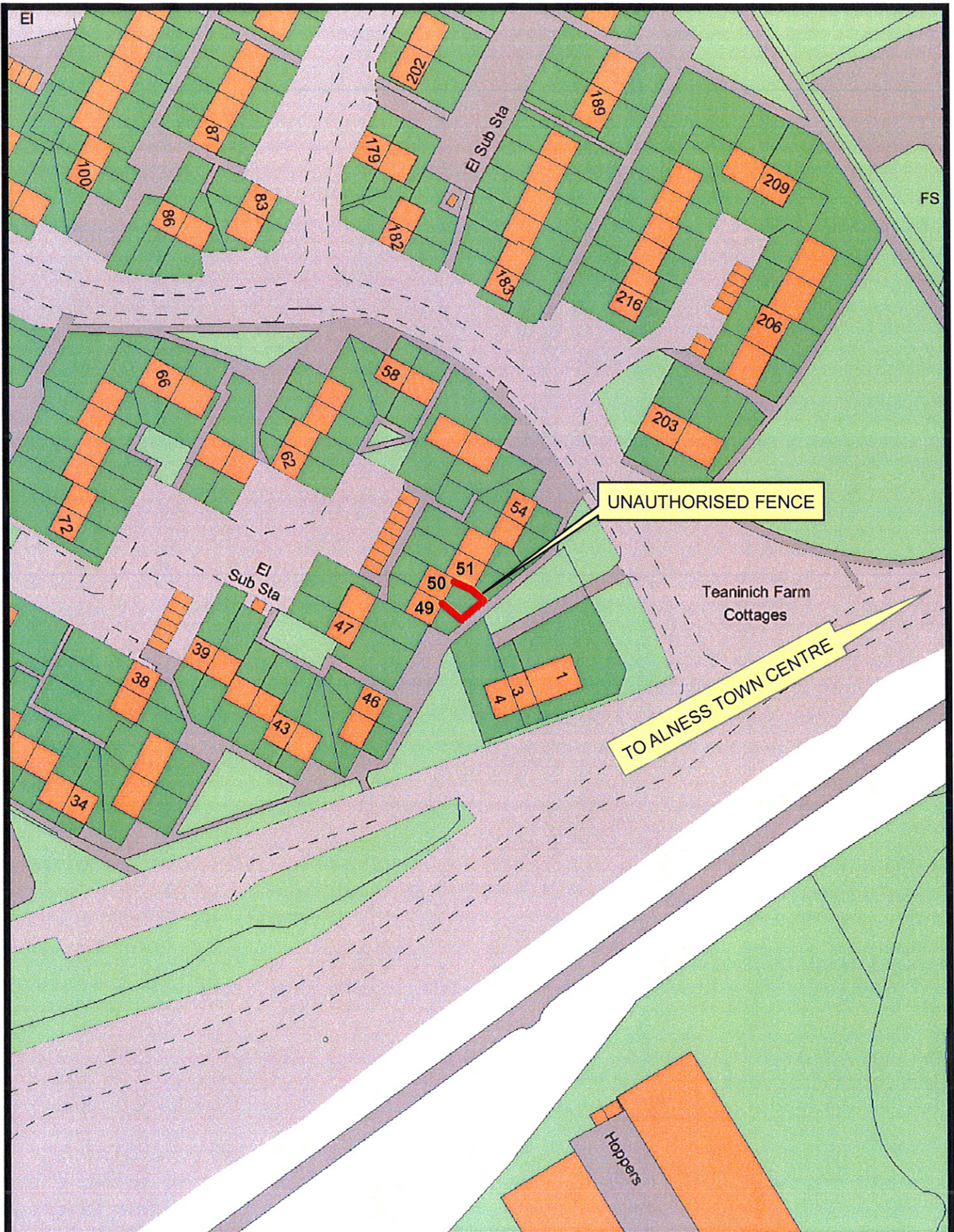
RECOMMENDATION

It is recommended that an Enforcement Notice is served on the householder at 50 Kirkside requiring the fence to be either removed or reduced in height to no more than 1m above existing ground level with a period of two months to carry out the works to the satisfaction of the Planning Authority.

Signature: Allan J Todd
Designation: Area Planning & Building Standards Manager (C,S & ER)
Author: Dorothy Stott
Designation: Principal Planning Officer
Report Date: 09.09.2009

Background Papers: Correspondence between Highland Council and Mr Page, 50 Kirkside,
Alness

Relevant Plans: Plan 1 – Location Plan



50 Kirkside, Alness