

Why have we lost our planning rights?

We plan to build two outbuildings in our substantial garden — both fall within our Permitted Development (PD) rights. On the instruction of our local Building Control department, we erected a temporary fence to protect the house users. However, the planning enforcement officer claims that putting up that fence means that the garden is “no longer one enclosure with the dwelling” — meaning we’ve now lost our PD rights. Is this right?

In my experience, I am not aware that the development of this fence between the existing residential house and the area of construction would result in the loss of your PD rights on the site, providing that the fence is only a temporary measure for health and safety purposes and that it does not exceed 2m in height (or 1m when next to a highway). You are perfectly within your rights to erect a fence within the curtilage of your domestic property under PD, subject to the above height restrictions.

The loss of garden land as curtilage is usually the result of a change of use or a planning application. Given that this is within the domestic curtilage of the property, it is a temporary measure, and that the new outbuildings are not to be used independently of the existing dwelling for separate accommodation means it is in line with regulations. It might be that the planning enforcement officer considered that you were going to create a separate planning unit without applying for planning permission and hence has perceived a problem. I would suggest that you contact the officer and request that they clarify their position in writing.