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## Appeal Decision

Site visit made on 12 June 2025

by **Andy Harwood CMS MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 July 2025

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**Appeal Ref: APP/H5390/C/23/3324313**

**45 Wandsworth Bridge Road, London SW6 2TB**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
  - The appeal is made by Mr Sam Thompson against an enforcement notice issued by the Council of the London Borough of Hammersmith and Fulham.
  - The notice was issued on 9 May 2023.
  - The breach of planning control as alleged in the notice is: Without planning permission, the installation of a brick wall with black metal railings above and black metal gate with a maximum height of 1.83 metres on the front boundary.
  - The requirement of the notice is to: Reduce the height of the brick wall with black metal railings and black metal gate so that it extends no more than 1 metre above ground level.
  - The period for compliance with the requirement is: Two (2) months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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### Decision

1. It is directed that the enforcement notice is corrected by:
  - Deletion at section 2 of the words “black metal railings above and black metal gate with a maximum height of 1.83 metres” and their replacement with “timber trellis above and a timber gate”;
  - Deletion at section 3(b) of the words “black painted metal railings and black painted metal gate with a maximum height of 1.83 metres” and their replacement with “timber trellis and a timber gate”; and
  - Deletion at section 4(i) of the words “black metal railings and black metal gate” and their replacement with “timber trellis and a timber gate”.
2. Subject to the corrections, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the “the installation of a brick wall with timber trellis above and a timber gate on the front boundary” at 45 Wandsworth Bridge Road, London SW6 2TB as shown on the plan attached to the notice.

### Preliminary Matters

3. The appellant has mentioned that the development in place is not what is described on the notice. Although an appeal on ground (b) has not been lodged, this seems to me to be an appeal on that ground that the development as alleged has not occurred as a matter of fact. I will deal with the appeal on that basis.

### **Appeal on ground (b)**

4. The development that I saw on site is a brick wall with 3 piers including stone caps and the 2 lower sections between the piers which are also capped in stonework. Also between the piers in the 2 sections are sections of timber trellising. The gate is also constructed of timber and has an arched top with fret-work that can be view through, above the solid bottom half.
5. I sought further information from the main parties to seek and explanation of what has happened and the timing of this relative to the issuing of the notice. Evidence from both parties about what existed when the notice was issued is very limited.
6. The Council should have made sure that the notice was targeted at what was on site when the notice was issued. I would expect some evidence from them to demonstrate that as part of a well organised investigative process with appropriate record keeping. The issuing of an enforcement notice is a serious matter. It undermines the integrity of the decision making process, contrary to the advice in the Planning Practice Guidance, if notices are issued inaccurately when that inaccuracy could have been avoided.
7. The onus is indeed however on the appellant to demonstrate their case on the balance of probabilities. The appellants have only provided written information via their agent which states that the wall that I saw was in place by 6 March 2023. The appellant's grounds of appeal statement was submitted in June 2023, just over a month after the notice was issued and appended photographs show the same wall as currently exists, completed. Whilst the appellant's version of when the change was made is not corroborated by receipts from suppliers or invoices from contractors, it is the only evidence I have. The Council has not in fact disputed what the appellant has said or provided evidence to counter that statement. In the absence of anything else, I consider that it seems probable that what is on site now is what existed when the notice was issued.
8. I will be allowing the appeal on this ground. However, I can consider utilising my broad powers under the provisions of s176(1)(a) of the Act to correct any defect, error or misdescription in the enforcement notice where I am satisfied that it would not cause injustice to the appellant or to the Council.
9. In considering that, I have very limited information about the previous form of the wall with railings. Just from the descriptions on the notice, what I have seen and the Council's written report, the structure is significantly different from what the Council thought they were taking enforcement action against. The Council argue that if the notice is inaccurate, it has not hindered the appellant's ability to understand what is alleged or to provide an effective defence. The appellant confirms that their case has been based upon what is now on site. The Council has had an opportunity to comment on the differences and has also not suggested that their interests would be hindered if I were to correct the notice.
10. I therefore consider that neither the Council nor the appellant would be caused injustice if I correct the notice to refer to the development that is currently on site and which, on the balance of probabilities, was in place on the date the notice was issued. I will need to revise the description in each place it is repeated which is within the allegation, the reasons for issuing the notice and the requirements.
11. The appeal on ground (b) is allowed and the notice will be corrected.

### **Appeal on ground (a)**

12. Under this ground of appeal, I have to consider whether planning permission ought to be granted for the matters stated as the breach of planning control. In that respect, I will consider the development as described in the corrected allegation.

#### *Main issue*

13. The main issue is the effect of the development on the character and appearance of the area, including whether it would preserve or enhance the character or appearance of the Studdridge Street Conservation Area (the CA).

#### *Reasons*

14. The appeal site is within the CA which covers a broad area. The Council's CA 'Studdridge Street Character Profile' (SSCP) statement provides some evidence about the character and appearance of the area.
15. This part of the CA includes terraces of red-brick dwellings which are set back from the footways alongside both sides of Wandsworth Bridge Road by short front gardens and with walls at the rear edge of the footways. Many of these walls along here appear to me to be a little over the 1m height that the Council is seeking the wall in this case to be reduced to and that is consistent with the appellant's evidence. Some walls are even higher with the odd wall sticking out conspicuously above the general level and some are lower than 1m. The SSCP refers to the mix of boundary treatments with a variety of railings, low brick walls and hedges or a combination of these.
16. The 2 properties on either side of the appeal site (Nos 43 and 47) are also subject to enforcement notices and appeals were not lodged against those. I have not taken into account the presence of those walls which are higher and of a different appearance than the wall I am considering and which are unauthorised. I have little to indicate to me what any of these frontages looked like before the unauthorised alterations. The Council refers to the previous walls comprising of brick and metal railings with an "estimated" height of 1m.
17. Red brickwork dominates the materials used for boundary walls. This does provide some coherence both with the other walls but also with the dwellings along here that are predominately constructed of red brick as well. The wall is around 1.275m in height according to the survey information provided by the appellant and which has not been disputed by the Council. That is the height between the 3 piers and is reasonably consistent with many of the walls nearby as far as I could see and which have also been surveyed by the appellant. The piers are higher at 1.89m according to that same information. This is not an unusual arrangement along this part of Wandsworth Bridge Road and the piers are not incongruously tall. Between the piers, the trellis is in a contrasting, pale colour and the green of the planting behind can be seen and softens the effect of the wall. The gate is a traditional style and is a similar height or a little below the piers. This arrangement is coherent with the general appearance of the walls in the area and provides an attractive frontage within the road.
18. In relation to the main issue, the development does not have a harmful effect on the character and appearance of the area, and thereby preserves the character and appearance of the CA. This complies with Policies DC1, DC4 and DC8 of The

Hammersmith and Fulham Local Plan, adopted February 2018. These, amongst other things, require all development to create a high quality urban environment that respects and enhances its townscape context and heritage assets; presuming in favour of conservation, restoration and enhancement of heritage assets and only permitting applications affecting designated heritage assets, if the significance of the heritage asset is conserved or enhanced.

*Other matters*

19. Given that the development has been completed, there are no planning conditions necessary to attached to the planning permission I am granting.

**Conclusion**

20. Having had regard to the development plan as a whole and all other material considerations, I conclude that the development is acceptable and that the appeal should succeed on ground (a). I shall grant planning permission for “the installation of a brick wall with timber trellis above and a timber gate on the front boundary” as described in the notice as corrected. The appeal on ground (g) does not therefore fall to be considered.

*Andy Harwood*

INSPECTOR