



Appeal Decision

Site visit made on 30 July 2025

by **Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 August 2025

Appeal Ref: APP/E5330/C/24/3337271

99 Woolacombe Road, Kidbrooke, London SE3 8QW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Ms Ogechi Osanebi against an enforcement notice issued by Royal Borough of Greenwich.
 - The notice was issued on 14 December 2023.
 - The breach of planning control as alleged in the notice is *without planning permission the unauthorised alteration of the front facing boundary. This has resulted in a boundary that measures, at the piers, 1.8m and the horizontal metal slats which measure 1.75m in height from ground level, as measured from the side which abuts the highway. This height of the boundary is above the height allowed under permitted development. For indicative purposes please see the annotated Photograph 1 and Photograph 3 ("the Unauthorised Development")*
 - The requirements of the notice are:
 - 5.1 Remove from the boundary of the front garden of the Property all parts of the boundary wall and piers that exceed one metre in height above ground level (for this purpose ground level at any point is to be measured from the level of the adjacent highway).
 - 5.2 Remove from the land all debris and spoil generated as a result of carrying out the requirements above, to an authorised place of disposal.
 - The period for compliance with the requirements is *6 months from the date this notice takes effect.*
 - The appeal is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 (as amended).
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Formal Decision

1. It is directed that the appeal is dismissed, and the enforcement notice (EN) is upheld.

Preliminary Matters

2. There is no deemed planning application following an appeal having been made on ground (a) and the relevant fee has not been paid. Therefore, planning merits considerations are not before me in this appeal.
3. Since the appeal proceeds solely on ground (f) of S174(2) of the Town and Country Planning Act 1990 (the 1990 Act) as amended, it is not always necessary for a site visit to take place, nevertheless in this instance I thought it prudent to undertake an unaccompanied visit on the date above.

Appeal on ground (f)

4. An appeal on ground (f) is made on the basis that the requirements of the EN exceed what is necessary. S173(4) of the 1990 Act sets out the purposes which an EN may seek to achieve. They are either (a) remedying of the breach of planning control or (b) remedying any injury to amenity which has been caused by the breach. The EN is directed at the installation of the rendered front boundary wall, piers and dark grey horizontal metal railings. The structure is approximately 1.8 metres in height above ground level.

5. The EN does not require the boundary at the front of the property to be removed in its entirety but essentially seeks to under enforce, through the reduction of the height of the boundary treatment to within the permitted development tolerances as set out in Article 3(1) and Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). The reduction in height would clearly not result in the restoration of the land to its condition before the breach took place. Therefore, the purpose of the notice must be to remedy the injury to amenity which has been caused by the breach.
6. The appellant has suggested modifications to the existing boundary treatment which includes lowering the boundary wall, piers and horizontal railings to not exceed 1.5 metres in height from the ground level. The appellant draws my attention to a similar development granted permission¹ by the Council at 107 Woolacombe Road. I also noted at the site visit that there are several other examples of boundaries and demarcation structures fronting the highway that also exceed permitted development tolerances.
7. Given that the purpose of the notice is to remedy the injury to amenity, and the Council have accepted that 1.5 metre front boundaries are acceptable in the vicinity, had there been a ground (a) appeal the measures proposed by the appellant provide me with an obvious alternative, which could achieve the purposes of the EN with less cost and disruption to the appellant. However, in the absence of a ground (a) appeal, the power to vary an EN under s176(1)(b) cannot be used to attack the notice's substance².
8. Thus, in this case, the EN cannot be varied into a notice requiring something less, for example the reduction of the existing boundary treatment to 1.5 metres as this would require planning permission, in its own right. Therefore, the correct approach would have been to also pursue an appeal under ground (a). For these reasons, the appeal on ground (f) must therefore fail.

Conclusion

9. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the EN accordingly.

Robert Naylor

INSPECTOR

¹ Royal Borough of Greenwich Planning Ref: 22/1840/HD

² Wyatt Brothers (Oxford) Ltd v SSETR [2001] PLCR 161