



Appeal Decision

Site visit made on 5 August 2025

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th September 2025

Appeal Ref: APP/C5690/C/23/3323767

86 Churchdown, Bromley, BR1 5PQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Ms Theresa Bell against an enforcement notice issued by the Council of the London Borough of Lewisham.
 - The notice was issued on 26 April 2023.
 - The breach of planning control as alleged in the notice is: The installation of boundary treatments which exceed the limitations of permitted development rights.
 - The requirements of the notice are to:
 1. a) Reduce the height of the boundary treatment to 1m from the ground.Or
 - b) Remove the boundary treatments in their entirety.
 2. Remove all materials, debris, waste, and equipment resulting from compliance with the other requirements of this notice from the Land and its premises.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld with the following correction:
 - deleting the words in paragraph 3 of the notice and replacing them with 'without planning permission, the installation of boundary treatments to the front of the property which exceed the limitations of permitted development rights'.

Preliminary Matters

2. Neither the appellant nor a representative of the Council were present at the time of my site visit. I decided to undertake the visit on an unaccompanied basis and I was able to see all I needed to in order to determine the appeal. I am satisfied that no party has been prejudiced by this approach.
3. The appellant's submissions refer to the planning merits of the development. However, as there is no ground (a) appeal and associated deemed planning application, I cannot consider the merits of the development.

Matters concerning the notice

4. The allegation in paragraph 3 of the notice refers to the installation of boundary treatments, but the precise location is not identified either in the allegation or the plan attached to the notice. It is therefore vague and imprecise. I have a duty to ensure that the enforcement notice is in order. Under s176(1) of the Act, as amended, it is open to me to correct any defect, error or misdescription in the

enforcement notice or to vary its terms provided I am satisfied that the correction or variation will not cause any injustice. Based on the parties' evidence, and the reasons for issuing the notice, which refer to the effect of the development on the street scene, it is clear that the notice relates to the new front boundary treatment. Accordingly, I have corrected the allegation to refer to the location of the boundary treatment to the front. I am satisfied that this correction can be made without injustice being caused to the parties.

The ground (c) appeal

5. An appeal on ground (c) is that the matters alleged in the notice do not constitute a breach of planning control. This is a legal ground of appeal and the onus of proof lies with the appellant, with the relevant test being the balance of probability.
6. The property is a mid-terraced dwelling which is set back from the road and occupies an elevated position with a driveway to the front which slopes up from the highway to the front of the property. The new front boundary wall subject of the notice is set at right angles to the highway and is between the host property and 88 Churchdown. It sits alongside an existing boundary wall between the properties.
7. Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) permits the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure. Such development is not permitted if the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed 1m above ground.
8. The wall varies in height and is staggered to follow the slope of the driveway. From ground level it measures around 1.3m high at the pillar closest to the footpath to about 1.8m high further back towards the house. Although it extends away from the footpath to the front wall of the house, the wall is adjacent to the highway and its height exceeds 1m. As a result, the wall is not permitted development under Schedule 2, Part 2, Class A and therefore not granted planning permission by Article 3(1) of the GPDO.
9. The appellant says that the height of the wall was lowered to comply with the Council's guidelines, but its height nevertheless exceeds the limits for permitted development under Schedule 2, Part 2, Class A. Planning permission does not exist for the development which therefore constitutes a breach of planning control. The appeal on ground (c) therefore fails.

Other Matters

10. Matters relating to the Council's handling of the case and the dispute with the neighbour are outside the remit of this appeal which has been concerned solely with whether the matters alleged in the notice constitute a breach of planning control. I also note the appellants comments on the advice given by the Council. However, such informal advice is not binding and is subject to the formal written decision of the Council. The appellant says that no information on how to correctly appeal was included with the notice. Even so, they have exercised their right of appeal and so have not been substantially prejudiced.

Conclusion

11. For the reasons given, and having regard to all other matters raised, I conclude that the appeal should be dismissed and I shall uphold the enforcement notice subject to the necessary correction.

M Ollerenshaw

INSPECTOR