



Appeal Decision

Site visit made on 17 June 2025

by **M Savage BSc (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 September 2025

Appeal Ref: APP/C3240/C/24/3341597

9 Punta Verde Drive, Sutton Hill, Telford, Shropshire TF7 4EJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Sumeet Singh Sarao against an enforcement notice issued by Telford and Wrekin Council.
- The notice was issued on 5 March 2024.
- The breach of planning control as alleged in the notice is without planning permission, the carrying out of an engineering operation to raise land levels including the erection of a retaining wall in the area shown cross hatched and marked on the attached plan.
- The requirements of the notice are to:
 1. Dig out all of the land in the area shown highlighted blue on the attached site plan edged red to the depth shown cross hatched in black and annotated on the attached cross sectional drawing marked appendix (1). For the avoidance of doubt the land should be dug out to a depth of 1600mm at point (A) immediately adjacent to the boundary and graded back to a depth of 900mm at point (B) adjacent to the existing paved area which is next to the dwelling known as 9 Punta Verde, to accord with appendix (1).
N.B Steps may need to be taken to retain the land within the site following the removal of the unauthorised infill.
 2. Demolish the retaining wall and foundation which is in the approximate location highlighted green on the attached plan
 3. Remove all the materials arising from the excavation and demolition works from the land to a licensed point of disposal
 4. Grass seed the excavated area
- The period for compliance with the requirements is: six months.
- The appeal is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 (as amended).

Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - At section 3 of the notice, the deletion of the words "area shown cross hatched and marked on the attached plan" and their substitution with the words "approximate area shaded blue on the attached plan and shown cross hatched on appendix 1, with the retaining wall shaded green on appendix 1." so that the allegation says "Without planning permission, the carrying out of an engineering operation to raise land levels including the erection of a retaining wall in the approximate area shaded blue on the attached plan (Plan 1), and shown cross hatched on appendix 1, with the retaining wall shaded green on appendix 1."
 - At section 5 of the notice, WHAT YOU ARE REQUIRED TO DO, the deletion of requirement 1 and its substitution with the words "Dig out all of the land in the area shown highlighted blue on the attached site plan (Plan 1), to the depth shown cross hatched in black and annotated on the attached cross sectional drawing marked appendix (1). For the avoidance of doubt the land should be

dug out to a depth of 1600mm at point (A) adjacent to the retaining wall and boundary with Number 11, and graded back to a depth of 900mm at point (B) adjacent to the existing paved area which is next to the dwelling known as 9 Punta Verde Drive."

- At section 5 of the notice, WHAT YOU ARE REQUIRED TO DO, requirement 2, the deletion of the words "on the attached plan" and their substitution with the words "in appendix 1", so that requirement 2 says "Demolish the retaining wall and foundation which is in the approximate location highlighted green in appendix 1."
- At section 5 of the notice, WHAT YOU ARE REQUIRED TO DO, requirement 3, the deletion of the words "to a licensed point of disposal" so that requirement 3 says "Remove all the material arising from the excavation and demolition works from the land."
- The deletion of the plan attached to the enforcement notice and the substitution with Plan 1, contained at annex 1 of this decision letter.

2. Subject to these corrections and variations, the enforcement notice is upheld.

Preliminary Matters

3. The appellant has drawn my attention to the fact that an enforcement notice has previously been issued in respect of the site, which was withdrawn. The enforcement notice to which this appeal relates was issued following the withdrawal of that enforcement notice. While the Council withdrew the previous notice, section 173A of the Act enables a local planning authority to withdraw an enforcement notice issued by them and section 171B(4) enables the local planning authority to take further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.

Matters concerning the notice

4. The enforcement notice alleges 'Without planning permission, the carrying out of an engineering operation to raise land levels including the erection of a retaining wall in the area shown cross hatched and marked on the attached plan.' The attached plan shows a rectangular area that is shaded blue. However, during my site visit, I saw that the grassed area curves in the north western corner of the site, around the patio. I have wide powers of correction under section 176(1) of the Act, subject to the correction or variation not causing injustice to the appellant or the local planning authority.
5. I queried with the parties whether the plan should be corrected to exclude the patio area, with a curve. I also queried whether the allegation should be corrected, in the interests of certainty, to say 'Without planning permission, the carrying out of an engineering operation to raise land levels including the erection of a retaining wall in the approximate area shaded blue on the attached plan and shown cross hatched on appendix 1, with the retaining wall shaded green on appendix 1.' and whether the requirements should be corrected to reflect the revised plan and changes to the allegation. The Council has provided me with a revised plan, Plan

1, and confirmed its agreement to correct the allegation and requirements, as suggested by me.

6. In response to my queries, the appellant has raised concern regarding the severity of the remedial measures, given their willingness to cooperate and the Council's own enforcement policy. However, while the appellant may be willing to apply for retrospective planning permission for the works and make what they consider to be proportionate modifications to mitigate any impact on neighbouring properties, there is no ground (a) appeal before me. I cannot, therefore, consider the planning merits of the works.
7. The revised plan provided by the Council shows a slightly smaller area, and so I consider there would be no injustice caused to appellant were I to delete the plan attached to the enforcement notice and substitute it with Plan 1, in Annex 1 of this decision letter. The changes to the allegation would provide clarity, without expanding the scope of the allegation and the changes to the requirements would provide clarity without making the notice more onerous to comply with. I therefore consider the notice can be corrected without causing injustice to either party.

Ground (f)

Reasons

8. An appeal under ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by the matters stated in the notice, or... to remedy any injury to amenity which has been caused by any such breach. It is clear from the wording of the notice that its purpose is to remedy the breach of planning control by removing the material used to raise land levels, demolishing the retaining wall, requiring material arising from the excavation and demolition works to be removed and grass seed the excavated area.
9. The appellant has raised concern regarding the Council's decision to take enforcement action, particularly in light of the Council's own enforcement policy. While enforcement action is discretionary, any challenge as to whether it was expedient for the Council to issue the enforcement notice can only be pursued by way of judicial review. I have no jurisdiction to determine whether the Council has complied with section 172 of the Act.
10. The appellant suggests increasing the height of the fence or shrubbery to address any concerns raised by neighbouring occupants. However, erecting a fence or shrubbery would not remedy the breach and as there is no ground (a) appeal, I cannot consider the planning merits of the works, nor can I impose conditions. Other matters raised, such as whether the works cause harm to privacy or safety relate to the planning merits of the works.
11. The appellant suggests they are not financially in a position to carry out the works. However, while there will inevitably be a cost associated with complying the notice, this does not mean that the steps are excessive.
12. In response to my query regarding the notice, it was suggested that the appellant feels the areas advised to remove are substantially more than the area he built up. However, the appellant has not appealed under ground (b) and while they have

provided drawings showing proposed works which indicate a lesser depth of fill, from the evidence it seems unlikely that these drawings reflect the works which have actually been carried out.

13. An interested party has provided photographs showing the appeal site prior to the works being carried out, which shows, amongst other things, that there was a brick retaining wall along the edge of the patio. Given the number of bricks, and the fact that the land has been raised so that it is broadly in line with the patio, it seems likely at this point that the land was raised by approximately 900mm, rather than the 680mm indicated by the plans. Furthermore, from my inspection of the site, the interested party's drawing, at appendix 16 of their submissions, appears to be a more accurate reflection of the works which have been carried out. It therefore seems unlikely the requirements are excessive in this regard.
14. Although not raised by the appellant, I find the wording 'N.B Steps may need to be taken to retain the land within the site following the removal of the unauthorised fill.' To be ambiguous. It is not clear what steps may need to be taken. Requiring the appellant to remove the material which has been used to raise the garden would remedy the breach (along with the demolition of the retaining wall and foundation) and so I consider this text to be unnecessary. I shall delete the wording: 'N.B Steps may need to be taken to retain the land within the site following the removal of the unauthorised fill.' This would not make the notice more onerous to comply with and so I consider the notice can be varied in this way without causing injustice to either party.
15. Requiring the appellant to take the material arising from the excavation and demolition works to a licensed point of disposal is excessive, particularly since it may be possible to use the material elsewhere. I shall vary the notice to remove the requirement to take material arising from the works to a licensed point of disposal. Since this would not make the notice more onerous to comply with, I consider the notice can be varied in this way without causing injustice to either party.
16. The ground (f) succeeds to the extent set out above and I shall vary the notice, as corrected, accordingly.

Conclusion

17. For the reasons given above, I conclude that the requirements of the notice are excessive to remedy the breach of planning control. I shall correct and vary the enforcement notice prior to upholding it. The appeal on ground (f) succeeds to that extent.

M Savage

INSPECTOR



ANNEX 1: PLAN 1

This is PLAN 1 referred to in my decision dated: **29 September 2025**

by **M Savage BSc (Hons) MCD MRTPI**

Land at 9 Punta Verde Drive, Sutton Hill, Telford, Shropshire TF7 4EJ

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Scale: Not to scale

