



Appeal Decision

Site visit made on 16 September 2025

by **A Berry MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 October 2025

Appeal Ref: APP/W5780/C/23/3325807

1 Mellish Gardens, Woodford Green IG8 0BH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act").
 - The appeal is made by Mr Faisal Khan against an enforcement notice ("EN") issued by the Council of the London Borough of Redbridge.
 - The EN was issued on 15 June 2023.
 - The breach of planning control as alleged in the EN is: Without planning permission, Demolished boundary fence, Erection of fence and relocate to boundary line.
 - The requirements of the EN are to:
 - Remove the unauthorised boundary fence in its entirety
 - Restore original boundary fence
 - The period for compliance with the requirements is: Two months from the date the EN takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the 1990 Act. 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 1990 Act.
-

Decision

1. It is directed that the EN is corrected and varied by:

- *the deletion of the words "Without planning permission, Demolished boundary fence, Erection of fence and relocate to boundary line" and their substitution with the words "Without planning permission, the erection of a fence" in section 3; and*
- *the deletion of the words "- Remove the unauthorised boundary fence in its entirety - Restore original boundary fence" and their substitution with the words "Remove the unauthorised fence in its entirety".*

Subject to the correction and variation, the appeal is allowed, the EN is quashed, and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act for the development already carried out, namely the erection of a fence at 1 Mellish Gardens, Woodford Green IG8 0BH as shown on the plan attached to the EN.

Matters Concerning the Notice

2. The act of development is the erection of a fence. The remainder of the wording in the alleged breach is superfluous and therefore should be deleted. The first bullet point of the EN's requirements refers to a "boundary fence". To ensure the alleged breach as corrected and the requirements align, it is necessary for the word "boundary" to be omitted from the first bullet point of the requirements. The correction and variation would not cause injustice to either party as they are for precision.

3. The second bullet point of the EN's requirements seeks to restore the original boundary fence. This exceeds what is required to remedy the breach of planning control and therefore should be deleted.

Preliminary Matter

4. The Council's evidence relies on specific paragraphs within a Special Character Appraisal¹ ("SCA"). I requested a copy of the document however it was not submitted by the deadline. Therefore, I downloaded a copy of the document from the Council's website.

Appeal on Ground (a) and the Deemed Planning Permission

5. An appeal under ground (a) is that planning permission should be granted for the matters alleged. The **main issue** is the effect of the development on the character and appearance of the surrounding area, including the significance of the Woodford Green Conservation Area ("CA").

Reasons

6. The appeal site is within the CA. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the LB & CA Act") requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The National Planning Policy Framework ("the Framework") sets out at paragraph 212 that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to that asset's conservation.
7. According to the SCA, Woodford Green together with Woodford Wells, developed as settlements along a forest track (now the A104). The special interest of the CA consists of loose-knit developments surrounding long, semi-natural open spaces which form the heart of the area; smaller open spaces; lines and clusters of mature trees; ponds; related buildings; and narrow roads with mature hedgerows away from the main road. It has a village feel to the centre of the CA and a semi-rural feel outside it. Buildings representing the eighteenth, nineteenth and twentieth centuries impart a sense of historical continuity with some individual buildings of particular quality. Consequently, the significance of the CA derives from its historic and aesthetic values.
8. The appeal site forms part of a late twentieth century housing development that consists of a winding arterial road (Harts Grove) that provides access to numerous cul-de-sacs containing predominantly detached dwellings. The dwellings face into the cul-de-sacs and therefore, rear gardens tend to face towards Harts Grove. This is synonymous of the appeal site as the dwelling faces into Mellish Gardens and the appeal site's curved rear garden bounds Harts Grove.
9. Contrary to what is stated within the EN, the photographic evidence before me of the land prior to the breach of planning control shows a brick wall surrounding the rear garden of the appeal site. However, it was stepped back from the adjacent pavement by an area of vegetation. Photographs also indicate that this land was unkempt. The wall has been demolished, and a 2m high close boarded fence stained a dark colour has been erected adjacent to the pavement. A small gap

¹ The Woodford Green and Woodford Wells Conservation Area: A Special Character Appraisal, adopted 2007

exists between the fence and the pavement which has been planted with hedging which does not form part of the breach.

10. I appreciate that the area around Snakes Lane West is open in character. However, this is in stark contrast with Harts Grove. The entrance into the housing development is demarcated by a substantial brick archway across either side of the pavement, and the fire station's brick boundary wall along one side of the road. These features create an enclosed character and appearance when approaching the housing development.
11. The enclosed character and appearance continues into the housing development with planning permission granted² at 2 Mellish Gardens for a fence of a similar height, siting and materials as the fence at the appeal site. Opposite 1 and 2 Mellish Gardens, planning permission³ was granted for a boundary wall, railings and gates at South Lodge that abut the back edge of the pavement. In addition, the wall of South Lodge's garage is positioned adjacent to the pavement.
12. Further along Harts Grove, both sides of the road are highly enclosed by vegetation, hedging, walls, fences and railings of various heights. Although some boundary treatments are set back from the pavement, these gaps are minimal and do little to alter the road's narrow and confined character and appearance.
13. I accept that repositioning the boundary treatment closer to Harts Grove has increased its prominence and the sense of enclosure along this part of the road. However, it is my judgement that the fence complements the existing enclosed character of the arterial road.
14. The dark colour of the fence is recessive and complements the Arts and Crafts dark timber detailing of the surrounding houses and their dark window frames and joinery details. Furthermore, the colour matches the approved fence at No 2. As such, the colour of the fence does not harm the character and appearance of the surrounding area.
15. The Council has directed me to the SCA which states that smaller open spaces contribute to the CA's special interest and that green open spaces and mature vegetation is essential to the historic and visual character of the CA. The SCA does not define "smaller open space" or "green open spaces", nor does it identify these areas on the enclosed maps.
16. I acknowledge that prior to the enclosure of the land, there was a small area of vegetation adjacent to Harts Grove. Even if the land could be defined as a smaller open space, it is my judgement that its unkempt and overgrown appearance did not contribute to the CA's special interest. Consequently, the loss of this land has not harmed the significance of the CA.
17. As I have not found harm to the CA, it is not necessary for me to undertake a balancing exercise in respect of the public benefits of the proposal, as required by paragraph 215 of the Framework.
18. For the reasons outlined above, the fence does not harm the character or appearance of the surrounding area, or the significance of the CA. It complies with

² Planning Ref 1360/20

³ Planning Ref 2896/02

Policies D3 and HC1 of The London Plan, adopted 2021 and Policies LP26 and LP33 of the Redbridge Local Plan 2015-2030, adopted 2018.

19. These policies seek to ensure that development respects the local character of the area and makes a positive architectural and urban design contribution to its context and location; and seek to ensure the borough's heritage assets are conserved, protected and enhanced in a manner appropriate to their special interest, character or appearance and significance.

Other Matters

20. There are two Grade II listed buildings in proximity of the appeal site: Harts House and South Lodge. The appeal site falls within the setting of these listed buildings and accordingly, I have a statutory duty under section 66(1) of the LB & CA Act to pay special regard to the desirability of preserving their setting.
21. Harts House was constructed in the early 19th century and is three-storeys in height. It was originally a dwelling, then a hospital and now a nursing home. South Lodge is the former lodge of Harts House and was constructed in the mid-19th century. It comprises two-storeys and is currently occupied as a dwelling. The significance of these listed buildings derives from their historic and aesthetic values.
22. In the 1990s, planning permission was granted for the construction of a housing development that encompassed both Harts House and South Lodge, thereby significantly altering the setting of these listed buildings. The fence is a domestic feature commonly found within the setting of the housing development. While the fence has moved closer to these listed buildings, their domestic and enclosed setting is maintained. Consequently, I do not find that the fence harms the setting of these listed buildings.
23. The Council assert that the development involves a change of use from publicly accessible land to private land within the curtilage of the dwelling, and interested parties have raised concern regarding "common land" being encompassed into the appellant's garden. However, the alleged breach of planning control does not imply that a material change of use has occurred. Therefore, this is not a matter before me for consideration.
24. Interested parties have raised concern that the fence impedes the visibility of drivers along Harts Grove. However, this has not been substantiated with evidence. Furthermore, the Council has not raised highway safety as a reason for issuing the EN. Concern has also been raised regarding the potential of the hedge impeding pedestrians using the pavement. However, the hedge is not part of the alleged breach and therefore this is not a matter before me for consideration.
25. Concern has been raised that granting deemed planning permission for the fence could set a precedent for similar boundary treatments in the surrounding area and similar retrospective applications. However, each case must be determined on its own merits.
26. It has been stated that trees subject to a Tree Preservation Order ("TPO") were unlawfully removed from the land to facilitate the development. However, this has not been substantiated with evidence. Furthermore, consent was given for the

felling of various trees during 2021 and 2022 prior to the EN being issued, and the Council has not raised the removal of TPO trees as a reason for issuing the EN.

Conditions

27. The Council has not suggested any conditions should I be minded to allow the appeal. I consider the scale, siting, colour and height of the fence is acceptable. Consequently, I do not seek to impose any conditions.

Conclusion

28. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the EN as corrected. The EN will be corrected, varied and quashed.
29. In these circumstances the appeal on grounds (f) and (g) do not fall to be considered.

A Berry

INSPECTOR