



Appeal Decisions

Site visit made on 30 September 2025

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

an Inspector appointed by the Secretary of State

Decision date: 19 November 2025

Appeal Refs: APP/M0655/C/25/3367677 (Appeal A) & 3367678 (Appeal B) 5 Stage Lane, Lymm, Warrington WA13 9HZ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeals are made by Mr David Smith (Appeal A) and Miss Jennifer Williams (Appeal B) against an enforcement notice issued by Warrington Borough Council.
- The notice was issued on 20 May 2025.
- The breach of planning control as alleged in the notice is: Without planning permission, the erection of fencing along the front boundary to Stage Lane.
- The requirements of the notice are to:
 - a) Permanently remove the fencing along the front boundary to Stage Lane in its entirety
 - OR
 - b) Reduce the height of the fencing along the front boundary to Stage Lane to a maximum of one metre in height.
- The period for compliance with the requirements is: One Calendar month from the date the notice takes effect.
- The appeals are proceeding on the grounds set out in section 174(2)(c) and (f) of the Town and Country Planning Act 1990 (as amended).

Decisions

1. The appeals are dismissed and the enforcement notice is upheld.

Preliminary Matters

2. The appellants ticked ground (a) on their appeal form. However, where an enforcement notice is issued after 25 April 2024, ground (a) is barred if the requirements of section 174(2A) are met. Namely, the enforcement notice on related development was issued: 1. Within the time allowed for determination of the planning application or, 2. Within two years of the date on which the related application ceased to be under consideration. Ground (a) is barred in this case and so the appeals shall proceed on grounds (c) and (f).

Ground (c)

3. An appeal under ground (c) is made on the basis that the matters stated in the notice do not constitute a breach of planning control. Although not specifically referred to by the appellants, the Town and Country (General Permitted Development)(England) Order 2015 (as amended)(the GPDO), Schedule 2, Part 2, Class A, permits the erection of a fence up to 1m above ground level where it has been constructed adjacent to a highway used by vehicular traffic and 2m where it is not adjacent to a highway used by vehicular traffic.
4. This appeal will turn on whether the fencing is adjacent to a highway used by vehicular traffic. The term 'adjacent to a highway' is not defined in the GPDO. The Oxford English Dictionary defines 'adjacent' as 'next to or very near something else; neighbouring; boarding; contiguous; adjoining.' What constitutes 'adjacent to

a highway' is a matter of fact and degree, depending on the circumstances of the case.

5. The appeal site comprises a semi-detached property, which fronts onto Stage Lane. Planning permission was granted in 2023 for a first floor rear extension and external alterations, which included changes to the principal elevation of the property. The front entrance of the property is now located in the elevation fronting onto White Broom and patio doors have been erected in the elevation fronting onto Stage Lane. Between the appeal property and the road is a footpath and a grass verge.
6. Fencing has been erected along the boundary of the appeal site which greatly exceeds 1m in height. The appellants assert that the fence is not adjacent to the public highway as a 2.3 metre grass verge is separating it. A hedge has been planted to the front of the fencing, which, at the time of my visit, partially obscured views of the fencing from the public domain.
7. Although there is a grassed area and a hedge between the fence panels and the highway used by vehicular traffic, the fence which has been erected is, in my view, perceived as a boundary fence separating the appellants' land from the highway. Consequently, I consider it to be adjacent to Stage Lane, a highway used by vehicular traffic.
8. The appellants have drawn my attention to examples of fences of a similar height in the area. I also note the appellant's concerns regarding privacy and security and that the appellant has planted a laurel hedge to lessen any effect on the street scene, however I cannot consider the planning merits of the case under ground (c).
9. Since the fencing exceeds 1m in height and is adjacent to a highway used by vehicular traffic, it is not granted planning permission by the GPDO. Consequently, the appeals under ground (c) must fail.

Ground (f)

10. 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 those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
11. Section 173(3) of the Act states that an enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes. Section 173(4) of the Act sets out the purposes of a notice are (a) remedying the breach by making any development comply with the terms... of any planning permission..., by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or (b) remedying any injury to amenity which has been caused by the breach.
12. The Council is under enforcing by giving the appellant the option of reducing the fencing to a maximum of 1m. This reflects the fact that the appellant would be able to erect a fence up to 1m in height under permitted development rights. Since the requirements of the notice are to remove the fencing, or reduce the height of the

fencing to a maximum of 1 metre in height, the purpose of the notice is, in my view to remedy the breach.

13. The appellants suggest removing or reducing the fence would be excessive, as the screening will render it invisible from the street. However, there is no appeal under ground (a) and so I cannot consider planning merits. Allowing the fence to stay in its current form would not remedy the breach, either wholly or in part. There are no lesser steps that would achieve the purpose of the notice and so the appeals under ground (f) must fail.

Conclusions

14. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice.

M Savage

INSPECTOR