
Appeal Decision

Site visit made on 20 January 2026

by **M Ollerenshaw BSc(Hons) MTPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5th February 2026

Appeal Ref: APP/R0660/C/24/3358010

Land at Holly Farm, Withers Lane, High Legh, WA16 0SG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr S Kamani against an enforcement notice issued by Cheshire East Council.
 - The notice was issued on 14 November 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a brick boundary wall, brick pillars, electric gates, green mesh fencing and four CCTV poles with cameras/lights attached.
 - The requirements of the notice are to:
 - 1) Remove the brick boundary wall, brick pillars and electric gates shown in their approximate position marked by an orange line on the attached plan marked "Plan B" or reduce the height of the brick boundary wall, brick pillars and electric gates shown in their approximate position marked by an orange line on the attached plan marked "Plan B" to no higher than two metres,
And,
 - 2) Remove the green mesh fencing shown in the approximate position marked by a pink line on the attached plan marked "Plan B" or reduce the height of the green mesh fencing shown in the approximate position marked by a pink line on the attached plan marked "Plan B" to no higher than two metres,
And,
 - 3) Remove the four CCTV poles with cameras/lights attached shown in their approximate position marked 'A', 'B', 'C' or 'D' on the attached plan marked "Plan B",
And,
 - 4) Remove from the land all resultant material and debris following compliance with 1, 2 and 3 above.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is varied by the deletion of "3 months" and the substitution of "6 months" as the time for compliance in section 6 of the notice. Subject to that variation, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. A previous enforcement notice relating to this site and the same alleged breach of planning control was quashed on appeal on 26 June 2024 due to a lack of clarity over the steps required for compliance¹. That appeal included a ground (a) appeal. I note the appellant's concern that it is unjust for ground (a) to be unavailable in the current appeal, particularly given that the previous notice was quashed for reasons beyond their control. However, the restriction on ground (a) appeals introduced by

¹ Appeal ref. APP/R0660/C/23/3324485

s118 of the Levelling-up and Regeneration Act 2023 applies by operation of statute and is triggered by the existence of a previously refused application to regularise the same development. As these provisions do not allow discretion the appellant is barred from appealing on ground (a) in the current proceedings.

3. The appellant's submissions and third-party representations refer to the effects of the development on the character of the area, the Green Belt, and ecology, amongst other things. I also note the security concerns which led the appellant to erect the new boundary treatments and CCTV. However, in the absence of an appeal on ground (a) I cannot consider the planning merits of the development. The appellant has questioned the Council's decision to issue the notice, but that also falls outside the remit of this appeal and is a matter for the Council.

The ground (f) appeal

4. An appeal on this ground is that the steps required by the notice exceed what is necessary to remedy any breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
5. When an appeal is made on ground (f), it is necessary to understand the purpose of the notice. S173(4) of the 1990 Act sets out the purposes which an enforcement notice may seek to achieve, either wholly or in part. These purposes are either (a) remedying of the breach of planning control or (b) remedying any injury to amenity which has been caused by the breach.
6. The appellant contends that the option to either remove the boundary treatments or reduce their height creates ambiguity as to the intended purpose of the notice. However, by returning the land to its condition before the breach took place or effectively allowing what could have been erected under permitted development², the purpose of the notice is to remedy the breach of planning control, rather than any injury to amenity.
7. Bearing in mind that enforcement is intended to be remedial rather than punitive, the optional requirement to reduce the height of the boundary treatments to reflect what could be erected under permitted development rights as a realistic fallback is an obvious and reasonable alternative to complete removal and could be achieved with less cost and disruption.
8. The appellant proposes to retain the existing landscaping and supplement it with new planting to soften and screen the development. However, allowing the development to remain with landscaping would not achieve the purpose of the notice, which is to remedy the breach of planning control.
9. The appellant considers that the lack of an alternative to removal of the CCTV poles, such as lowering or relocating the poles, is disproportionate. There are no further details of such alternatives, and this would also not remedy the breach.
10. The environmental impacts of removing the boundary treatments, including the need to remove planting that has matured around the fencing, and the potential for replacement boundary treatments to be more visually intrusive than the existing, relate to the planning merits of the matter which fall outside the scope of the ground (f) appeal.

² Permitted by virtue of Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 under Class A of Part 2 of Schedule 2 of that Order.

11. There are no obvious alternatives or lesser steps to achieve the purpose of the notice. The requirements of the notice do not exceed what is reasonably required to remedy the breach of planning control. Therefore, the appeal on ground (f) does not succeed.

The ground (g) appeal

12. An appeal on ground (g) is that the period given for compliance with the notice falls short of what should reasonably be allowed.
13. In this case the compliance period is 3 months. The appellant suggests that a timeframe of 6-12 months would be reasonable.
14. The works required by the notice would be a relatively straightforward matter for a suitably experienced contractor. 3 months would seem to me to be more than sufficient to complete these works.
15. I agree with the appellant that the works should be carefully considered to avoid disturbance during the bird nesting season, but this does not justify a longer compliance period. Having regard to the duties under the Wildlife and Countryside Act 1981, it is the appellant's responsibility to plan, survey, and carry out the required work using recognised best practice measures to avoid such disturbance.
16. However, in addition to the works required by the notice, it will also take time to implement alternative security measures, especially if those measures first require the submission and approval of a planning application. The appellant also indicates that they would not be able to reside at the property without the security that the existing measures provide, and in the meantime they may need to secure an alternative home.
17. Although a 12 month period has not been adequately justified, I consider that 6 months would be a reasonable time period to carry out the requirements of the notice and address the above matters.
18. For the reasons given above I shall vary the period for compliance to 6 months prior to upholding the notice. The appeal on ground (g) succeeds to that extent.

M Ollerenshaw

INSPECTOR