
Appeal Decisions

Site visit made on 13 January 2026

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th February 2026

Appeal A Ref: APP/A4710/C/25/3361274

Appeal B Ref: APP/A4710/C/25/3361275

Land and property at 60 Moor End Road, Halifax, HX2 0JD

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made by Mr Mohammed Shafiq Rasool (Appeal A) and Mrs Farah Naz Mir (Appeal B) against an enforcement notice issued by Calderdale Metropolitan Borough Council.
 - The notice was issued on 27 January 2025.
 - The breach of planning control as alleged in the notice is:
Part 1) Without planning permission, the erection of metal railings on top of an existing boundary wall (excluding the pedestrian and vehicular wrought iron gate) resulting in the combined height of the boundary wall and metal railings exceeding 1 metre (above ground level) on the south boundary of the Land adjacent to the Moor End Road which is a highway used by vehicular traffic (in the approximate position indicated red on the attached Plan ENF1 and as seen in the digital photographs attached to this Notice at Appendix 1 marked respectively with the letters BC, DE and FG.
Part 2) Without planning permission the erection of metal railings on an existing wall, resulting in the combined height of the wall and metal railings exceeding 2 metres (above ground level) on the east, west and south boundary (set back from the highway) of the Land (in the approximate position indicated red on the attached Plan ENF1 and as seen in the digital photographs attached to this Notice at Appendix 1 marked respectively with the letters AB, GH and HI).
 - The requirements of the notice are to:
(i) Permanently remove from the Land, the metal railings on the south boundary of the Land referred to in Paragraph 3, Part 1 above, as seen in the digital photographs attached to this Notice at Appendix 1.
(ii) Permanently remove from the Land, the metal railings on the east, west and south boundary (set back from the highway) of the Land referred to in Paragraph 3, Part 2 above, as seen in the digital photographs attached to this Notice at Appendix 1.
 - The period for compliance with the requirements is three months.
 - The appeals are proceeding on the grounds set out in section 174(2)(d), (f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decisions

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

Preliminary Matters

2. Appeals A and B relate to the same site and the same enforcement notice. I shall therefore deal with them together.
3. The allegation relates to metal railings that have been installed on pre-existing boundary walls to the front of the property. The appellants state that they were advised they could install railings up to two metres in height with the necessary planning permission. Although there was some uncertainty about the point from which the height should be measured, there is no dispute that the railings require, but do not benefit from, planning permission and therefore constitute a breach of planning control.

4. I note the appellants' reasons for erecting the railings and their subsequent attempt to regularise the matter through the submission of a planning application¹. However, there is no ground (a) appeal before me, and I am not considering the planning merits of the case or whether planning permission should be granted.

The ground (d) appeals

5. An appeal on ground (d) is that, at the date the notice was issued, it was too late to take enforcement action against the matters stated in the notice.
6. Where there has been a breach of planning control consisting of operational development, in this case the erection of railings, where these were substantially completed before 25 April 2024, by virtue of section 171B(1) of the 1990 Act, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
7. There is no dispute that the railings were substantially completed before 25 April 2024. The notice was issued on 27 January 2025. Therefore, in order to succeed on ground (d), the onus is on the appellants to demonstrate, on the balance of probabilities, that the alleged development was substantially completed on or before 27 January 2021.
8. There is reference in the appellants' grounds of appeal to vandalism at the property between the end of 2019 and the beginning 2020, which prompted them to install the railings as a security measure. They have not, however, provided any substantive evidence to demonstrate when the railings were installed. Accordingly, the appellants have failed to discharge the burden of proof that is upon them.
9. A photograph submitted by the Council taken from Google Street View shows that the railings were not in place in March 2021. A later photograph indicates that the railings had been installed by 3 August 2023. The evidence before me therefore indicates that the railings were not substantially complete four years before the issue of the notice, that is by 27 January 2021.
10. The appellants have not demonstrated as a matter of fact and degree and on the balance of probabilities, that at the time the notice was issued, it was too late to take enforcement action against the matters stated in the notice.
11. Consequently, the appeals on ground (d) fail.

The ground (f) appeals

12. An appeal on this ground is that the requirements of the notice are excessive.
13. When an appeal is made on ground (f), it is necessary to understand the purpose of the notice. Section 173(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) the remedying of the breach of planning control or (b) remedying any injury to amenity which has been caused by the breach. In this case, the requirements of the notice seek the removal of the railings in their entirety. The purpose of the notice is therefore to remedy the breach of planning control.
14. The appellants have not explained why they consider the requirements of the notice to be excessive, nor suggested any lesser steps to remedy the breach of planning

¹ Council ref. 25/00045/HSE

control. There are no obvious alternatives to achieve the purpose of the notice with less cost and disruption.

15. I conclude that the requirements of the notice do not exceed what is reasonably required in order to remedy the breach of planning control.
16. The appeals on ground (f) therefore fail.

The ground (g) appeals

17. An appeal on ground (g) is that the period given for compliance with the notice falls short of what should reasonably be allowed.
18. The notice requires the railings to be removed within three months. The appellants have not explained why they consider this too short a timeframe or suggested what period of time they consider would be reasonable. The removal of the railings would be a relatively straightforward matter of unbolting the fixings from the walls. Three months would be more than sufficient to complete this. The stated compliance period is therefore reasonable and proportionate to the breach of planning control.
19. Therefore, the appeals on ground (g) fail.

Conclusion

20. For the reasons given above, I conclude that the appeals should not succeed, and the enforcement notice will be upheld.

M Ollerenshaw

INSPECTOR