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## Appeal Decision

Site visit made on 20 January 2026

by **Martin Allen BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 February 2026

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**Appeal Ref: APP/D0121/C/25/3363083**

**Ground Floor Flat (front), 15 Trewartha Park, Weston-Super Mare BS23 2RP**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
  - The appeal is made by Miss G E Watkins against an enforcement notice issued by North Somerset Council.
  - The notice was issued on 7 March 2025.
  - The breach of planning control as alleged in the notice is, without planning permission, the erection of a fence and gate.
  - The requirement of the notice is to: Remove the fence and gate and all resulting materials from the land.
  - The period for compliance with the requirement is: 3 months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a), (c) and (f) of the Town and Country Planning Act 1990 (as amended) (the TCPA). 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 Act.
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### Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### Ground (c)

2. This ground of appeal is that the matters alleged in the notice do not constitute a breach of planning control.
3. The appeal site is fronted by a low stone wall, which contains a pillar at each end, together with central pillars on either side of the gateway that provides access to the property. Between each of the end and central sets of pillars a timber fence has been erected, and timber gates have been constructed at the gateway. As these timber elements have been added to and thereby altered the existing stone wall, they can be considered to fall within Class A, Part 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 which permits:  
*“the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure”*
4. This class of permitted development is subject to limitations, and the development is not permitted if:  
*(a) the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed—*

*(i) for a school, 2 metres above ground level, provided that any part of the gate, fence, wall or means of enclosure which is more than 1 metre above ground level does not create an obstruction to the view of persons using the highway as to be likely to cause danger to such persons;*

*(ii) in any other case, 1 metre above ground level;*

*(b) the height of any other gate, fence, wall or means of enclosure erected or constructed would exceed 2 metres above ground level;*

*(c) the height of any gate, fence, wall or other means of enclosure maintained, improved or altered would, as a result of the development, exceed its former height or the height referred to in paragraph (a) or (b) as the height appropriate to it if erected or constructed, whichever is the greater.*

5. As the erection of the timber elements has altered the previously existing stone wall, paragraph (c) above is relevant, and the height of the now existing means of enclosure must not exceed 1 metre or its former height, whichever is the greater.
6. The appellant, within their appeal statement, contends that as the newly erected fencing and gate do not exceed the height of the pillars that are present within the wall, i.e., that there has been no increase in the maximum height of the means of enclosure as a whole, that there has been no breach of planning control. However, this ignores that the parts of the wall that have had the timber elements erected on them now exceed their former height. As such, even though the pillars are taller, the erection of the timber elements fails to accord with the requirements at paragraph (c) of Class A, Part 2. Even if this was not the case, the Council has provided details of an Article 4 Direction which removes the permitted development right in respect of the improvement or alteration of stone walls and as such any alteration requires planning permission, which has not been granted.
7. The appellant refers to the site being located on a hill and it thereby being difficult to measure the height of the wall. However, given the presence of the Article 4 Direction, any works to increase the existing height of the wall require planning permission. There is no contention that the works have not taken place and as such this matter has little bearing on my decision.
8. Accordingly, the matters alleged do constitute a breach of planning control and the appeal on ground (c) therefore must fail.

### **Ground (a) – the deemed planning application**

#### *Main issue*

9. The main issue is the effect of the fence and gate on the character and appearance of the area, having regard to the sites location within the Greater Weston Conservation Area.

#### *Reasons*

10. The appeal site comprises the front boundary wall of a large Victorian residential property. The original boundary comprises an attractive stone wall, with gate pillars topped with stone balls, centrally located and further pillars at the edges of the property boundary. Currently the area between the pillars is occupied by added timber fencing that sits atop the wall. The majority of properties along the same

side of the street at the appeal site retain the same attractive boundary walling, and this positively contributes to the attractiveness of the street. There are examples of boundaries that have significant planting behind, such as the appeal site does, as well as examples of the more commonplace open front boundaries.

11. The appeal site lies within the Greater Weston Conservation Area (the CA). I observed that the significance of this designated heritage asset lies in part in the presence of traditionally proportioned and detailed front boundary walls that delineate streets and front gardens.
12. The timber fencing that has been added to the wall is an intrusive and incongruous feature within the streetscene. It serves to erode the visual charm of the wall and pillars by introducing a harsh and unsympathetic form of boundary, which appears alien within its immediate context as well as the context of the wider street. The suggestion of the appellant to stain the fence and gate a colour would not overcome this.
13. As a result, the development has a harmful effect on the character and appearance of the area, which includes failing to preserve the significance of the CA as a designated heritage asset. Thus, the development conflicts with policies CS5 and CS12 of the North Somerset Council Core Strategy (adopted January 2017), policies DM3 and DM32 of the North Somerset Council Development Management Policies: Site and Policies Plan Part 1 (adopted July 2016). Together, and amongst other things these policies seek to ensure that development conserves the historic environment, achieves a high quality of design, does not harm the character and appearance of conservation areas, and demonstrates sensitivity to local character.
14. In failing to preserve the character and appearance of the conservation area, I find that the scheme would result in less than substantial harm to a designated heritage asset. As required by paragraph 215 of the National Planning Policy Framework, I have had regard to any public benefits of the proposed development. However, none have been identified and therefore this matter cannot outweigh the harm that is caused.

#### *Other Matters*

15. I have noted that the property opposite the appeal site contains a timber fence that extends for a significant extent. Nonetheless, this sits behind a stone wall, which does not contain the stone pillar elements that the appeal site does, and it occupies a corner location as well as sitting behind the existing stone wall, not on top of it. As such, the circumstances of that fence are materially different to that which I am considering in this appeal. Other schemes have also been referred to such as a demolition ground, a stone wall, and flats, however these are clearly different schemes from the work subject of this enforcement notice. As such, the cited examples do not dissuade me from my findings above.
16. The appellant refers to the roots of street trees causing damage to the wall, the pruning of those trees, the lack of access or views being affected, the lack of harm to residential amenity, that the fence is not permanent, Section 215 of the TCPA and there being an extensive planning history associated with nearby properties. None of these matters are directly relevant to my consideration of the germane matters as set out in my decisions above.

17. There is further reference to Article 8 and Article 1 of the First Protocol of the Human Rights Act 1998, relating to right for respect for private and family life, and protection of property, respectively. However, these are qualified rights and must be balanced against the wider public interest. I have found that the development would result in harm, including harm to a designated heritage asset. In this instance, any interference with these rights would be proportionate given the legitimate public aim of preventing harm to character and appearance including a designated heritage asset and ensuring that a breach of planning control is rectified.
18. The Appellant contends that there has been inconsistency in decision making in allowing similar boundary treatments nearby. However, I observed none that were directly comparable to that which exists at the appeal site and as such I find no such inconsistency.
19. Within the appeal statement the appellant requests that a hearing be undertaken if “further action” is to be taken. However, the appellant indicated on the appeal form that it was requested that the appeal be determined by way of the written representation procedure and I am satisfied that the matters are capable of being fully understood through this procedure. It is not therefore necessary to undertake a hearing in respect of this appeal.
20. Concern is raised in respect of the initial issuing of an enforcement notice which was then withdrawn, with a notice then being re-served (with this re-served notice being the subject of this appeal). The appellant contends that the appeal deadline is inconsistent, however the notice is clear that it came into effect on 9 May 2025 and that an appeal must be made before that date. I note that the appeal form is dated 26 March 2025, and so the appellant was able to submit an appeal in good time. I note that there was a substantial period of time between the first and second enforcement notices, however that is a matter for the Council, and not a matter that influences my determination on the grounds of appeal.
21. I note that the intention of the fence and gate is to increase security to the property. However, there is nothing before me to show that alternative methods of securing the front garden have been pursued or that the development that is erected is the only method of addressing this. As such, this matter does not alter my findings above.

### **Ground (f)**

22. This ground of appeal is that the requirements of the notice are excessive and that lesser steps would overcome the objections. The enforcement notice seeks the removal of the entirety of the fencing and gates. As such the purpose is clearly to remedy the breach. I have not been provided with any lesser steps that would remedy the breach of planning control and as such, I consider that the steps outlined in the notice are reasonable and necessary.
23. The appeal on ground (f) therefore fails.

### **Conclusion**

24. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on

the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

*Martin Allen*

INSPECTOR