



Appeal Decisions

Site visit made on 3 December 2025

by **David Jones BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 February 2026

Appeal A Ref: APP/G4240/C/24/3353065

13 Jennings Close, Hyde, Tameside SK14 4UF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Mohammad Nazari against an enforcement notice issued by Tameside Metropolitan Borough Council.
 - The notice was issued on 5 September 2024.
 - The breach of planning control as alleged in the notice is without planning permission, operational development comprising of the erection of a timber panel fence of a height over one metre on land adjacent to the highway along the front boundary on the corner of 13 Jennings Close and the side boundary of 13 Jennings Close along Victoria Street and also the erection of a timber panel fence in excess of two metres in height on land along the rear boundary of 13 Jennings Close and the bridleway.
 - The requirements of the notice are:
 - Reduce the height of the timber panel fence to one metre along the front boundary on the corner of 13 Jennings Close and the side boundary of 13 Jennings Close along Victoria Street, the fence would also need to be stained in a dark green colour (outlined blue for identification purposes on the site plan, PLAN1)
 - Reduce the height of timber panel fence to two metres along the rear boundary of 13 Jennings Close and the bridleway, the fence would also need to be stained in a dark green colour (outlined blue for identification purposes on the site plan, PLAN1); OR
 - Remove the all the timber panel fence along the front boundary on the corner of 13 Jennings Close and the side boundary of 13 Jennings Close along Victoria Street and along the rear boundary of 13 Jennings Close and the bridleway (outlined blue for identification purposes on the site plan, PLAN1)
 - The period for compliance with the requirements is: Two months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c), (f), and (g) of the Town and Country Planning Act 1990 (as amended).
-

Appeal B Ref: APP/G4240/D/25/3365892

13 Jennings Close, Hyde, Tameside SK14 4UF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr M Nazari against the decision of Tameside Metropolitan Borough Council.
 - The application Ref is 25/00103/FUL.
 - The development proposed is boundary treatment to the front and side/rear of 13 Jennings Close.
-

Decisions

Appeal A

1. It is directed that the enforcement notice is corrected and varied by:
 - Substituting the plan attached to the notice with the amended plan annexed to this decision.

- In section 2 of the notice, the deletion of the land affected in its entirety and replacement with “Land at 13 Jennings Close, Hyde, Tameside SK14 4UF, outlined in red on the plan attached to the notice”
 - In section 3 of the notice, the deletion of the alleged breach of planning control in its entirety and replacement with “The erection of a timber panel fence to the front, side, and rear boundaries of 13 Jennings Close”.
 - In section 4 of the notice, the deletion of the requirements in their entirety and replacement with:
 - Reduce the height of the timber panel fence along the front and side boundaries of 13 Jennings Close to a height not exceeding one metre, and reduce the height of the timber panel fence along the rear boundary of 13 Jennings Close to a height not exceeding two metres;
- OR
- Demolish and remove the timber panel fence from the front, rear and side boundaries of 13 Jennings Close from the land.
 - In section 6 of the notice the deletion of the word “Two” and replacement with the word “Six”.

2. Subject to the above corrections and variations, the appeal is dismissed and the enforcement notice is upheld.

Appeal B

3. The appeal is dismissed.

Appeal A

The Notice

4. It is important for me to get the notice in order. On an appeal any defect, error, or misdescription in an enforcement notice may be corrected using the powers available in section 176(1)(a) of the Town and Country Planning Act 1990 as amended (the 1990 Act), or the terms varied, where the correction or variation will not cause injustice to the appellant or the local planning authority.
5. It is clear that the plan attached to the enforcement notice does not accurately reflect the area affected by the notice. The plan attached to the notice is a Land Registry Title Plan which appears to pre-date the construction of the properties on Jennings Close. Consequently, the red line does not accurately reflect the curtilage of 13 Jennings Close and incorporates part of the highway.
6. The Council has acknowledged that the plan is incorrect and have subsequently provided an amended plan. As the amended plan reduces the area affected by the notice it would not cause any injustice to either main party. I will therefore substitute the plan attached to the notice with the amended plan annexed to this decision.
7. The amended plan does not include a blue line to identify the fence as was the case with the original plan. The fence which is targeted by the notice is clearly

understood by the appellant, and it is clear from both the allegation and the reasons for issuing the notice that it is located on the front, side, and rear boundaries. Any reference to a blue line on the plan can therefore be removed without any injustice being caused.

8. The alleged breach of planning control in section 3 of the notice is long winded, cumbersome, and contains words which do not describe an act of development. The matters which appear to the Council to constitute a breach of planning control would be more succinctly described as “The erection of a timber panel fence to the front, side, and rear boundaries of 13 Jennings Close”.
9. Similarly, it is clear that the requirements in section 4 seek to give the appellant the option to either reduce the height of the fence to the front and side of the property to 1 metre, and to the rear of the property to 2 metres, or alternatively the fence in its entirety should be removed. I shall therefore remove any reference to the site plan and any words which are not an act of development so to make the requirements more concise.
10. Finally, throughout the notice there is reference to both “Jennings Close” and “Jenning Close”. It is clear from the appeal submissions and from my site visit that the appeal property is located on Jennings Close. Any reference to “Jenning Close” is therefore a typographical error which I have corrected for precision and clarity.

Ground (c)

11. For the appeal to succeed on ground (c) the onus is on the appellant to demonstrate that the matters alleged in the notice do not constitute a breach of planning control.
12. Section 57(1) of the 1990 Act makes clear that, subject to certain provisions, planning permission is required for the carrying out of any development of land. There is no evidence of any planning permission having been granted for the timber panel fence under section 58 of the 1990 Act.
13. However, certain developments are granted planning permission by Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (“the GPDO”). Schedule 2, Part 2, Class A of the GPDO sets out that the erection, construction, maintenance, improvement, or other alteration of a gate, fence, wall or other means of enclosure is permitted development.
14. Schedule 2, Part 2, Class A of the GPDO is subject to the limitations set out in paragraph A.1. Limitation A.1(a)(ii) is that development is not permitted by Schedule 2, Part 2, Class A if the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would exceed 1m above ground level. Limitation A.1(b) is that development is not permitted by the Class if the height of any other gate, fence, wall or means of enclosure erected or constructed would exceed 2m above ground level.
15. Limitation A.1(c) is that 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.

16. There is no dispute that the timber panel fence is adjacent to a highway used by vehicular traffic and that its height exceeds 1 metre, with other parts of the fencing exceeding 2 metres in height. The boundary treatment does not therefore meet the limitations A.1(a)(ii) or A.1(b) of the GPDO. The appellant though argues that the timber panel fence benefits from permitted development under A.1(c). This is on the basis that there was a previous fence that was “approximately” the same height as the current timber panel fence.
17. When comparing the current boundary treatment to the previous fencing as shown in the Google Street image from 2021, I am not convinced that it does not exceed the height of the former fence. It is readily apparent that the vast majority, if not all, of the timber panel fencing is greater in height than the previous fencing.
18. Nevertheless, the means of enclosure cannot reasonably be described as works of maintenance, improvement, or alteration. Indeed, the evidence is clear that the former boundary treatment has been removed and replaced with an entirely new means of enclosure. The previous low-level wall with short section of timber panel fencing above on the boundary fronting Victoria Street, and the timber fencing fronting the bridleway to the rear, have been removed. This former boundary treatment has been completely replaced with a single continuous timber panel fence that extends from the front of the property, along the Victoria Street boundary to the side, and along the rear boundary.
19. In my judgement, and when considered as a whole, the breach of planning control relates to the erection of a new, replacement boundary treatment. There is no objective evidence to indicate that any material components of the original boundary treatment have survived. The breach of planning control does not therefore fall within the scope of maintenance, improvement or alteration as the evidence indicates that the original wall and fencing was not in existence to be maintained, improved, or altered.
20. For the above reasons, the works do not constitute permitted development and the appeal on ground (c) fails.

Ground (f)

21. An appeal on ground (f) makes the claim that the steps required by the notice to be taken 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.
22. The appellant argues that the requirements of the notice are excessive as only a small reduction in the height of the fence would be required to bring it in line with the height of the previous fence, and therefore be permitted development under Schedule 2, Part 2, Class A of the GPDO. However, for the reasons set out in the ground (c) appeal above, I have found that the limitation under A.1(c) of the GPDO is not met and the newly erected timber panel fence amounts to a breach of planning control.
23. In the absence of any convincing evidence to the contrary, I am therefore satisfied that the requirements to either remove the timber panel fencing, or reduce it to a height that brings it within the relevant permitted development limits, are commensurate with the purposes of remedying the breach of planning control.

24. However, the notice also requires the fencing to be stained a dark green colour, which the appellant considers to be excessive. It was clear from my site visit that the fencing has already been stained a dark colour, and in any event the staining of the fence in a dark green colour would not assist in remedying the breach of planning control which is the purpose of the notice.
25. I therefore find the requirement to stain the fence a dark green colour to be excessive, and I shall therefore vary the notice to remove this part of the requirements. The appeal on ground (f) therefore succeeds to that limited extent.

Ground (g)

26. An appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable.
27. The appellant says that as the boundary fence also functions as a retaining structure and its removal could have implications for the stability of the ground behind it, specialist contractors would be required. It is also considered that it does not provide sufficient time for an alternative scheme to be designed and planning permission obtained. A period of compliance of twelve months is sought.
28. Given the level, nature, and extent of the works required, combined with the fact that compliance with the notice would likely leave the properties rear private amenity space largely open to external views from Victoria Street, I agree that two months falls short of what is reasonable. That said, twelve months is far too excessive and would be tantamount to a temporary planning permission. It would not provide the necessary balance in securing expeditious compliance with the notice and the private interests bound up in the development.
29. In view of the above, I find that a compliance period of six months would strike the appropriate balance between remedying the breach of planning control and giving the appellant sufficient time to undertake the works and/or seek permission for an alternative scheme.
30. The appeal on ground (g) therefore succeeds to this limited extent, and I will vary the enforcement notice by changing the compliance period to six months.

Appeal B

Preliminary Matters

31. Since the appeal was lodged, a revised version of the National Planning Policy Framework ("the Framework") was published in December 2024. I have considered the changes and as they are not material to the appeal development, further comments were not sought. I have, however, determined the appeal having regard to the revised Framework.
32. The application sought planning permission for the erection of a boundary treatment to the front, side, and rear of 13 Jennings Close. Whilst the application seeks the retention of part of the fencing which currently exists on site, and which is subject of the enforcement notice in Appeal A, the proposal is for a revised boundary treatment. For the avoidance of doubt, I have determined the appeal on the submitted plans that were before the Council when it made its decision.

Main Issue

33. The main issue is the effect of the proposed boundary treatment on the character and appearance of the area.

Reasons

34. The appeal site, 13 Jennings Close (No.13), is a two-storey detached dwelling within a residential area. No. 13 occupies a prominent corner plot location on the corner of Jennings Close and Victoria Street. Boundary treatments in the area vary in terms of style, design, and materials, although those fronting the highway are predominantly low-level walls or fencing often supplemented by hedging or planting. The prevalence of low-level walls and fencing with mature hedging or landscaping gives a sense of leafy openness which contributes positively to the character and appearance of the area.
35. The proposal would see the removal of the section of existing timber panel fence that extends forward of the front elevation of No.13, and the subsequent erection of a 1.2m high wall with silver birch trees and a laurel hedge behind. The Council consider that this part of the proposal would integrate well within the street scene, as it offers a mix of hard and soft landscaping. I find no reason to disagree with this assessment.
36. However, the remainder of the boundary fronting Victoria Street would consist of the existing timber panel fence being retained, albeit at a reduced height. Despite the reduction in height of the fence to 2 metres (when measured from the pavement), the fence would extend approximately 20 metres in length and would form a large, obtrusive, and incongruous feature that would be highly visible in the street scene. Its location directly alongside the pavement would also be at odds with the prevailing character of the area.
37. This harm would be further exacerbated by the open and exposed nature of the rear boundary, particularly where the bridleway meets Victoria Road. The timber panel fence along the rear boundary would be partially visible when approaching along Victoria Road from the west, and would appear as an over-imposing and overly dominant form of boundary treatment which would jar with the generally open character of the immediately surrounding area.
38. My attention has been drawn to other examples of boundary treatments in the area, including some that are taller than most others. However, in my judgement none of those examples which are situated in the immediate vicinity of the appeal site are of a similar size and scale or are as visually incongruous as the appeal proposal. I also do not know the circumstances of those other cases including whether they benefit from planning permission or the circumstances that existed if they were approved. In any case, I have determined the current appeal on its own merits and in the light of the most up to date policies and circumstances.
39. The appellant also argues that the height of the boundary treatment is due to the difference in ground levels and the need to offer some privacy and security. I have taken these matters into account, but they do not override the harm that I have identified with respect to the character and appearance of the area. I am also not satisfied that it has been demonstrated that these objectives could not be achieved by other more appropriate proposals.

40. I have also considered whether a split decision would be possible and planning permission granted solely for the 1.2m high wall with silver birch trees and laurel hedge behind to the front of No.13. However, from my inspection of the plans and given that the proposed wall would form part of a single boundary treatment when viewed from Victoria Street, this element is not clearly severable from those components of the development that are objectionable. I also cannot be certain that any subsequent boundary treatment along the remainder of the boundary fronting Victoria Street would physically and visually correspond with the wall. Consequently, I have not issued a split decision that grants planning permission for that part of the proposed boundary treatment.
41. Finally, the appellant has referred to a potential fallback position which would allow the erection of a replacement boundary treatment under Schedule 2, Part 2, Class A of the GPDO. The appellant asserts that this would allow the erection of a fence of the same height to that which had existed previously at the appeal site. For the reasons I have already set out in Appeal A, I have found that not to be the case.
42. In terms of any fallback position, given that it would be erected adjacent to a highway used by vehicular traffic, for it to constitute permitted development any boundary fencing could only be erected up to a height of 1 metre. However, the appellant states that a fence of this lesser height would not address their concerns regarding safety and privacy at the property. Therefore, it is unlikely to be implemented, and the fallback position carries extremely limited weight in favour of the appeal. In any event, the proposed fence would be considerably taller than 1 metre in height, which is a factor in contributing to its prominence in the street scene.
43. I therefore conclude that the proposed development would be harmful to the character and appearance of the area. It is therefore contrary to Policies C1 and H10 of the Tameside Unitary Development Plan (adopted November 2004), and Policy JP-P1 of the Places for Everyone Joint Development Plan Document (adopted March 2024). Taken together these policies seek, amongst other things, to ensure developments respect their surroundings and acknowledge the local character including boundary treatments.
44. The proposed boundary treatment would also be at odds with Policy RD21 of the Tameside Residential Design Supplementary Planning Document (adopted March 2010) (SPD), which sets out at section 2.26 that boundary treatments higher than 1 metre should have an element of transparency, and that wooden panel fencing should not be used at road frontage.
45. I note that the Council has also referred to Policy RED1 of the SPD. However, as that policy relates to extensions to dwellings, which is not what is proposed, it is not relevant to this decision.

Overall Conclusions

46. Appeal A - For the reasons given above, I conclude that the appeal succeeds in part, on grounds (f) and (g), but otherwise fails. I have therefore upheld the enforcement notice with corrections and variations.
47. Appeal B – I have found that the development conflicts with the policies of the development plan when read as a whole. There are no material considerations

that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, the appeal is dismissed.

David Jones

INSPECTOR

Amended Plan

This is the plan referred to in my decision dated:

By David Jones BSc (Hons) MPlan MRTPI

Land at: 13 Jennings Close, Hyde, Tameside SK14 4UF

Reference: APP/G4240/C/24/3353065

Scale: Not to scale

