



Appeal Decision

Site visit made on 28 January 2026

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th February 2026

Appeal Ref: APP/C4235/C/24/3346107

Land to the rear of 115 Silverdale Road, Gatley, Stockport SK8 4RF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act).
- The appeal is made by Mr Adil Amini against an enforcement notice issued by Stockport Metropolitan Borough Council.
- The notice was issued on 15 May 2024.
- The breach of planning control as alleged in the notice is without the benefit of planning permission the material change of use of land to a garden for use by the occupiers of 115 Silverdale Road, including the construction of an area of raised decking, step access and wooden fences.
- The requirements of the notice are to:
 1. Cease the use of the land as garden in connection with the occupation of 115 Silverdale Road.
 2. Remove from the land the raised area of decking including all posts, hand rails and support frame and steps to access the decking.
 3. Remove the 2 metre high fence used to enclose the land.
 4. Install a 1.8 metre high close boarded wooden fence along the original rear boundary of the garden of 115 Silverdale Road so that it prevents access to the land.
- The periods for compliance with the requirements are one month for step 1 and six months for steps 2 to 4.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c) and (f) of the Act. 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.

Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - The deletion of “4. Install a 1.8 metre high close boarded wooden fence along the original rear boundary of the garden of 115 Silverdale Road so that it prevents access to the land.” from paragraph 5 and the substitution with “4. The land shall be returned to its previous condition that existed prior to the breach occurring.”
 - The substitution of the plan annexed to this decision for the plan attached to the enforcement notice.
2. Subject to the corrections and variations, 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 Act.

Preliminary Matters

3. The appeal form had stated that the appeal was being made on grounds (e) and (g), however, the appellants statement confirmed that the intention is to appeal on grounds (a), (b) and (f). The appellant’s statement of case also discusses the fencing being compliant with the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) which relates to ground

(c) – that there has not been a breach of planning control. I have therefore assessed the appeal on grounds (a), (b), (c) and (f).

4. The alleged unauthorised development as described in the enforcement notice does not fall within the red line boundary has shown on the site plan that is attached to the notice. A notice can be null if it gives no sensible indication of the *precise boundaries of the land to which the notice relates*¹. However, an error on the plan should not be enough on its own to support a finding of nullity or even invalidity, so long as the recipient is not misled. In the *Coventry Scaffolding*² case the notice did not give a building number or include a plan – but it did name the street, and the building number had been given in correspondence. It was held in this case that the appellants were fully aware of which land the notice related to and the notice was not a nullity. In this appeal, the notice refers to land to the rear of 115 Silverdale Road (No 115), and it is clear from visiting the site that the matters alleged in the notice refers to the parcel of land to the rear of No 115. The Council have also submitted a revised site plan with red line boundary and a corresponding land registry document that confirms the appellant is in ownership of the parcel of land in which the alleged matters relates. Therefore, I do not find that the appellant has been misled and the enforcement notice is not a nullity.
5. Section 176(1) of the Act provides a wide-ranging power to correct or vary the terms of a notice provided that it would not result in injustice to the parties. For the sake of clarity, I have corrected the site plan and substituted it with the plan provided by the Council with an enhanced red line boundary. Given my comments above, there is no injustice to the parties in me correcting the site plan.

Appeal on ground (b)

6. An appeal on ground (b) is a claim that the matters alleged in the notice (which may give rise to the breach of planning control) have not occurred as a matter of fact. The onus of proof in ground (b) appeals is on the appellant and the test of the evidence is on the balance of probability.
7. The appellants argument on this ground is that the matters alleged in the notice have not occurred on land shown within the red line boundary of the site plan attached to the notice. The discrepancy with the site plan has been discussed above and the notice has not been found to be a nullity. At my site visit, it is clear that land to the rear of No 115 has been changed to garden use for the occupiers of No 115 including the construction of decking, step access and wooden fences. There is no evidence before me to suggest that the alleged development had not occurred on the site at the date the notice was issued.
8. Consequently, the appellant has failed to demonstrate that at the date the notice was issued the matters alleged had not occurred, and the appeal on ground (b) must fail.

Appeal on ground (c)

9. An appeal on ground (c) is that matters alleged in the notice, if they occurred, do not constitute a breach of planning control. The onus of proof in ground (c) appeals is on the appellant and the test of the evidence is on the balance of probability.

¹ as required by 4(c) of the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002

² Coventry Scaffolding Co (London) Ltd v Parker [1987] JPL 127

10. Class A, Part 2 of the GPDO states the erection of a fence is permitted development provided the height would not exceed 2 metres above the ground level. The appellant confirms in their statement of case that the fences are 2.1 and 2.09 metres high. As the fences exceed 2 metres in height, they therefore are not permitted development.
11. There is no evidence before me indicating that the matters alleged in the notice are permitted development, and thereby the alleged matters do constitute a breach of planning control. The appeal on ground (c) therefore fails.

Appeal on ground (a)

12. This ground of appeal is that planning permission should be granted for the matters alleged in the notice.

Main issues

13. The main issues are the effect of the development on the living conditions of occupiers of neighbouring properties in terms of privacy; the effect of the development on the character and appearance of the surrounding area; and the loss of open space.

Reasons

Living conditions

14. Due to its height, anyone standing or sitting on the decking area would have direct views into the private garden areas and rear windows of the neighbouring properties either side of the appeal site. The windows to the rear of these properties are into habitable rooms, in particular the ground floor rooms are highly visible given they have large patio door type openings that span much of the width of the properties.
15. The appellant refers to separation distances in the Council's Residential Extensions and Alterations Supplementary Planning Guidance. However, these refer to distances between habitable room windows, where views can be restricted by the size of a window opening. There is very little restrictions to the decking that can prevent views straight into the windows of the neighbouring properties as well as the garden areas. The appellant suggests that the decking is well screened by existing trees however, this is not what I experienced at my site visit. Due to the positioning of the trees and the height of the decking with its orientation with the neighbouring properties, the development does adversely compromise the living conditions of neighbouring occupiers in terms of overlooking and loss of privacy.
16. The development is harmful to the living conditions of occupiers of neighbouring properties with regards to privacy and it does not accord with Policies H-1 and SIE-1 of the Stockport Core Strategy DPD and Policy CDH1.8 of the Stockport Unitary Development Plan which seeks development to provide satisfactory levels of privacy for future and existing residents and to not cause damage to the amenity of neighbouring properties by reason of overlooking or loss of privacy.

Character and appearance

17. The area surrounding the appeal site is characterised by a mix of residential properties and gardens, with open space areas containing trees and shrubbery. It

is this mix of formal residential land and landscaped open spaces that contribute positively to the character of the immediate area.

18. The development is a significant intrusion into the existing strip of open space area introducing built development into a landscaped area. Whilst the development is mostly screened from public vantage points, the development is nevertheless highly visible from neighbouring residential properties and garden areas. The development appears as an incongruous intrusion into the open space and compromises the blend of private residential spaces and open land. I note that some mature trees remain on the appeal site however, this does not alleviate the harmful effect of the built development on the land.
19. The development has a harmful effect on the character and appearance of the area and it conflicts with Policies H-1 and SIE-1 of the Stockport Core Strategy DPD and Policy CDH1.8 of the Stockport Unitary Development Plan which seeks development to not adversely affect the character of the street scene, respond to the townscape and landscape character of the local area and pay high regard to the built and natural environment.

Open space

20. The Council indicate that the land in which the development has encroached upon has a local amenity value and functions as Local Open Space. There is a dispute between the parties as to whether the open space land is classified as "Amenity Greenspace" or "Natural and Semi-Natural Greenspace". The appellant has provided extracts from the Council's Open Space Assessment that suggests that there is sufficient open space land in the near vicinity of the appeal site.
21. The appeal site is relatively small in terms of its size and it does not result in the significant loss of open space, particularly given the larger strip of open space which remains behind the properties of Silverdale Road. The loss of open space at the appeal site does create a break in the larger strip of open space land however, this matter is more reflective in the effect it has on character and appearance, as discussed above.

Other matters

22. I have had regard to the appellant's statement of cases including reference to a burglary and that the development provides a level of security. There is insufficient evidence before me to show that alternative methods of security have been explored, and this matter does not overcome the concerns raised in the main issues above.
23. The appellant also details that the use of the land as garden with the retention of the fencing could be allowed. The retention of the fencing and the use of the land however, would still be an intrusion into the open space area that would be detrimental to the character and appearance of the area.

Conclusions on ground (a)

24. Whilst I have found that the development may not adversely effect open space, this does not outweigh the harm I have found in terms of living conditions and, character and appearance.

25. The development would conflict with the development plan as a whole and there are no other considerations, including the provisions of the National Planning Policy Framework, which outweigh this finding.
26. For the reasons given above, I conclude that the appeal should be dismissed and the appeal fails on ground (a).

Appeal on ground (f)

27. An appeal on ground (f) is that the requirements of the notice exceed what is necessary in order to remedy the breach of planning control or, as the case may be, the injury to amenity that is caused by the breach. Since the notice requires the use of the land as a garden to cease and the removal of fencing, steps, decking including all posts, hand rails and support frames, it is clear that the purpose of the notice is to remedy the breach.
28. The appellant claims that the requirement to erect a 1.8 metre high fence is excessive as there has never been a fence demarcating the end of the garden. The erection of a fence is not required to remedy the breach that is detailed in the notice and the appellant is best placed to know the condition of the land prior to the breach occurring. It is therefore sufficient that the notice requires that the land is restored to its former condition and I have varied the notice accordingly.
29. The appeal on ground (f) therefore succeeds in relation to point four of paragraph five of the notice.

Conclusion

30. For the reasons given above, I conclude that the appeal should fail on grounds (b), (c) and (a), and succeed on ground (f). Subject to the corrections and variations of the notice, as detailed in paragraph one, the appeal is dismissed, and the enforcement notice should be upheld.

Chris Baxter

INSPECTOR



Plan

This is the plan referred to in my decision dated: 18th February 2026

by **Chris Baxter BA (Hons) DipTP MRTPI**

Land to the rear of 115 Silverdale Road, Gatley, Stockport SK8 4RF

Appeal Ref: **APP/C4235/C/24/3346107**

Scale: Not to scale

Site Plan:

