



Appeal Decision

Site visit made on 10 February 2026

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2026

Appeal Ref: APP/T0355/C/24/3339463

The Crown, 108 Wootton Way, Maidenhead SL6 4PE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Zahid Sadiq against an enforcement notice issued by the Council of the Royal Borough of Windsor and Maidenhead.
 - The notice was issued on 23 January 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of fencing and gates.
 - The requirements of the notice are: (a) Demolish the fencing and gates identified in the image marked AJH1 attached to the notice and further identified with a thick blue line on the plan also attached. (b) Remove all materials from the land following compliance with step (a).
 - The period for compliance with the requirements is 28 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(d) and (g) of the Town and Country Planning Act 1990 (as amended). Since the prescribed fee has not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act has lapsed.
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Decision

1. The appeal is allowed and the enforcement notice is quashed.

Application for costs

2. An application for costs has been made by Mr Zahid Sadiq against the Council of the Royal Borough of Windsor and Maidenhead. This application is the subject of a separate Decision.

Ground (d) appeal

3. The ground of appeal is that it was too late to take enforcement action against the breach of planning control alleged in the notice. At the time the notice was issued, s171B(1) of the Act provided that where there has been a breach of planning control consisting in the carrying out of building operations, no enforcement action may be taken more than four years beginning on the date those operations were substantially completed. The burden of proving the relevant facts rests firmly with the appellant, the relevant test of the evidence being on the balance of probability.
4. The enforcement notice attacks solid timber fencing and gates, all around 2.4m in height, erected along the front boundary of a car park to a disused pub.
5. The appellant provided a sworn statement in which they stated that the boundary treatment was substantially complete by August 2019. Additional information provided included copies of a delivery note for quantities of materials used in the construction of fencing, purchased from a building supplier by the appellant's company on 20 July 2019, along with copies of photographic images dated

7 August 2019 which show the boundary treatment in situ. Also included were copies of other photographic images, including a Google Earth image dated October 2020 which shows a frontage structure in a similar position to the boundary treatment, casting a shadow over part of the frontage. Taken together, this evidence is sufficiently detailed, is consistent and provides considerable support for the appellant's claim. Therefore, unless there are sound reasons for not doing so the appellant's evidence should be given considerable weight.

6. The Council provided little clear and compelling evidence of its own which might have cast doubt on the appellant's account of events at the appeal premises. Rather, it relied on an absence of information concerning the presence of the boundary treatment in its records. There is no mention of the boundary treatment in the pre-application enquiry made in March 2019, which concerned redevelopment of the car park, or in the July 2019 Google Street View image of the premises. However, that is hardly surprising, given the appellant's claim that the boundary treatment was erected at a later date. There is no inconsistency with the appellant's evidence in this respect.
7. Nor is there reference to the boundary treatment in the planning application made in December 2019 for residential development of the car park¹, or during the subsequent planning appeal². Even so, that does not necessarily point to a later date for erection of the boundary treatment than the appellant claimed. It is highly likely that the Council would have been focussed on the main planning issues when determining the application, as would the Inspector deciding the appeal. It is perfectly possible that the boundary treatment was viewed as having little consequence as a temporary feature, during the application and appeal process. Moreover, the frontage structure shown on the October 2020 Google Earth image is supportive of the boundary treatment being in situ well before the Inspector visited the premises in connection with the appeal, in March 2021.
8. I am given to understand that the Council first became aware of the boundary treatment in September 2021. However, that does not inevitably mean it was erected earlier that year, as the Council suggested. It is not uncommon for there to be a significant delay between the carrying out of development and it coming to the attention of a Local Planning Authority. The Council confirmed that the September 2021 visit took place following complaints from interested parties concerning the poor condition of the premises and fly tipping. As far as I was made aware, none of those complaints referred to erection of the boundary treatment. If the boundary treatment is required to secure the car park pending the determination of a planning application for redevelopment as the Council, probably correctly, surmised, that surely increases the likelihood of it having been erected sometime prior to the 2019 application being made. Besides, if the boundary treatment had been erected earlier in 2021, that does not explain why there is a similar frontage structure shown on the October 2020 Google Earth image.
9. Accordingly, on the balance of probability the appellant's evidence is sufficiently precise and unambiguous to show that the boundary treatment was substantially completed more than four years before the notice was issued. I am not persuaded that any of the matters raised by the Council reduce the weight which should be attached to the appellant's evidence; none of those matters cast significant doubt

¹ Council Ref: 19/03611/FULL

² Appeal Ref: APP/T0355/W/20/3261789

on the appellant's account of events or make it less than probable. Therefore, the appellant has discharged the burden on them to show that it was too late for the Council to take enforcement action against the boundary treatment.

Conclusion

10. For the reasons given above, I conclude that the appeal should succeed on ground (d). The enforcement notice will be quashed. In these circumstances, the appeal on ground (g) does not fall to be considered.

Stephen Hawkins

INSPECTOR