



Appeal Decision

Site visit made on 24 March 2026

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 MARCH 2026

Appeal Ref: APP/V4250/C/25/3367731

Former St Mary's Church of England, 240 Warrington Road, Ince, Wigan, WN3 4NH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Ahmed Ismail (Impact Community Group) against an enforcement notice issued by Wigan Metropolitan Borough Council.
 - The notice was issued on 14 May 2025.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a 2.4m high palisade fencing to the site boundary on the Land, in the approximate position shown edged blue on the attached plan.
 - The requirement of the notice is to remove the fencing, panels, and posts as edged blue on the attached plan in their entirety, including all associated paraphernalia and to restore the Land to its original condition.
 - The period for compliance with the requirement is 56 days after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(b) and (f) of the Town and Country Planning Act 1990 (as amended).
-

Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Ground (b) appeal

2. The appeal made on ground (b) is that the matters comprising the alleged breach of planning control have not occurred. The onus is on the appellant to make a case on the legal grounds of appeal.
3. The appellant's claim is that '*gates*' were not installed '*till present*', that '*not all gates proposed were to be at the front boundary of the building*', and '*we proposed to remove the fence at the front of the building as there is a hedge growing*'. Moreover, the appellant makes comments in his grounds of appeal and statement of case relating to the planning merits of retaining the alleged 2.4-metre-high palisade fencing.
4. The planning merits of retaining the alleged 2.4-metre-high palisade fencing are not relevant to the consideration of an appeal made on ground (b) of section 174(2) of the Act. Such comments are relevant to the consideration of a ground (a) appeal and an associated deemed planning application. A ground (a) appeal is not before me.
5. The appellant's evidence relates to the provision of gates as distinct from the 2.4-metre-high fencing shown in the approximate position shown edged blue on the plan (appendix A) and in the photographs (appendix B) attached to the notice. The appellant has not provided precise evidence to demonstrate that when the notice was issued, the matters comprising the alleged breach of planning control had not

occurred. While it was evident on my site visit that part of the fencing fronting Warrington Road had been removed, a ground (b) appeal must relate to what had occurred on the land when the notice was issued. Therefore, I conclude that the ground (b) appeal fails.

Ground (f) appeal

6. The appeal on ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control or to remedy any injury to amenity which has been caused by any such a breach.
7. The claims made by the appellant in respect of the ground (f) appeal relate to the reasons why the unauthorised fencing should be retained. Such comments are relevant to the consideration of a ground (a) appeal and an associated deemed planning application. However, a ground (a) appeal is not before me.
8. The purpose of the notice is to remedy the breach of planning control. The removal of the fencing is not an excessive requirement as it seeks to remedy the breach of planning control by restoring the land to its original condition. Therefore, I conclude that the ground (f) appeal fails.

Conclusion

9. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

D Hartley

INSPECTOR