



Appeal Decision

Site visit made on 11 February 2026

by **K Williams MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 May 2026

Appeal Ref: APP/W0734/C/24/3356620

30 High Gill Road, Middlesbrough TS7 0EA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Michael O'Brien against an enforcement notice issued by Middlesbrough Council.
- The notice was issued on 7 November 2024.
- The breach of planning control as alleged in the notice is Unauthorised installation of raised decking, staircase, and additional fencing to the northwest side boundary between the application site and no.28 High Gill Road.
- The requirements of the notice are to:
 - Remove the unauthorised decking, stairs and fencing from the site
 - Restore the site to the condition it was prior to the breach taking place
- The period for compliance with the requirements is: 12 weeks.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). 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.

Summary of decision: The appeal is dismissed and the enforcement notice is upheld with corrections, in the terms set out below in the Formal Decision.

Background and Preliminary Matters

1. A retrospective planning application for the installation of raised decking, stairs and additional fence¹ at 30 High Gill Road was refused on 4 May 2022. Even if, the appellant was not made aware of the breach following their purchase of the property through local searches; this is a matter beyond the scope of this appeal.
2. An enforcement notice related to the above development was issued on 15 March 2023 and appealed² by the appellant. However, that Inspector determined that the enforcement notice was a nullity. In those circumstances, the appeal on the grounds set out in section 174(2)(a) and (f) of the Act, together with the deemed application for planning permission under section 177(5), did not fall to be determined. A new enforcement notice was issued, which is the subject of this appeal.
3. No drawings were submitted with the appeal by the appellant, but I have considered the development which has occurred and which I saw at my site visit. The Council referred certain drawings³ associated with the refused permission as part of its suggested conditions, should the appeal be allowed. The appellant has been able to comment on them.

¹ Application reference number 21/0507/FUL - Retrospective planning application for the installation of raised decking, stairs and additional fence.

² Appeal Ref: APP/W0734/C/23/3320096

³ Location Plan and Site Plan, drawing No. MH/21/002/001 dated June 2021; and Site Plan and Elevations, drawing No. MH/21/002/002 dated June 2021.

4. Section 176(1) of the Act empowers me to correct any defect, error or misdescription in the enforcement notice if no injustice would occur to the appellant or the Council. In Section 5 of the Notice, the first and second requirements contain words with letters missing. Although their meaning is intelligible, for clarity I will correct those words in my Formal Decision. No injustice occurs to either party in doing so.
5. While the appellant sought to raise issues relating to site levels and potential landscaping during and after the site visit, the appeal process is not a mechanism for the negotiation or evolution of a revised scheme. There is no provision within the appeal regulations⁴ for the submission of amendments, nor am I required to engage in discussions regarding alternative designs or additional mitigation.

Appeal on Ground (a) and the Deemed Planning Permission

6. An appeal under ground (a) is that planning permission should be granted for the matter alleged. The main issues are the effect of the development on the character and appearance of the area and the living conditions of the occupiers of 28 High Gill Road.

Reasons

Character and appearance

7. The appeal site comprises a detached dwelling set within a sloping plot in an established residential area. The dwelling is of brick construction with a pitched tiled roof and accommodation arranged over multiple levels, responding to the change in ground levels across the site. From the rear, the property presents as a three-storey dwelling and has a raised external decked terrace running across much of the width of the dwelling above the lower ground floor. This is enclosed by balustrading and is also accessed via an external staircase positioned along the side boundary with No 28.
8. Prior to the unauthorised works, it is understood that the appeal property benefited from a rear decking area and an arched privacy screen, and fence along the shared boundary with No 28. An external staircase positioned on the right-hand side of the dwelling allowed access to other garden levels. The subsequent development has reconfigured and enlarged these elements through the extension of the decking to form two raised platforms integrated within a relocated external staircase. The staircase, as now constructed, is an entirely new feature in terms of its scale, siting and design. In addition, the boundary fencing adjoining No 28 has been increased in height.
9. I observed that a number of properties in the surrounding area incorporate raised decking, balconies and boundary treatments that respond to the changing land levels. As such, the presence of external stairs and platforms is not, in itself, unfamiliar or out of character. However, generally such features are modest in scale and accompanied by boundary treatments of a clearly domestic character.
10. The boundary fence at the appeal site displays a pronounced variation in height along its length and does not respond to the natural gradient of the land. Instead, it rises sharply and disproportionately as it approaches the dwelling and towards the rear of the plot. The scale and cumulative form of this boundary treatment results

⁴ Planning appeals: procedural guide. For appeals relating to applications dated on or after 1 April 2026.

in something far removed from a typical domestic fence, reading instead as a substantial and uncharacteristic barrier.

11. While largely screened from wider public views, the fence is clearly appreciable from adjoining rear gardens and neighbouring dwellings. Taken individually and cumulatively, the fencing, decking platforms and staircase introduce conspicuously uncharacteristic elements which fail to integrate with, and detract from, the established residential context.
12. For the reasons set out above, I conclude that the development causes harm to the character and appearance of the area. Accordingly, it conflicts with policies DC1 and CS5 of the Middlesbrough Local Development Framework Core Strategy, adopted February 2008 (the Core Strategy). Collectively, these policies seek to ensure that development is of a high quality, ensuring that it is well integrated with the immediate and wider context. The Middlesbrough Urban Design Supplementary Planning Document adopted January 2013, (the SPD) reinforces these objectives by promoting context-led, visually coherent development, which the appeal proposal fails to achieve.

Living conditions

13. Some mutual overlooking between rear gardens would have existed prior to the erection of the staircase and decking and is a long established feature of the site and surrounding area given the dense urban form. A degree of separation between the appeal property and No 28 remains alongside the existing deck due to a gap providing shared access between the properties. However, where the gap ends, the staircase returns in line with the joint boundary. This results in the upper decked platform of the staircase positioned at a similar level as the main decked area directly on the joint boundary. Even though the fence is high, it does not prevent close range views into the kitchen and rear windows of No 28, as well as elevated views across most of its garden and into the conservatory.
14. While comparisons are drawn with the steps at No 28, those steps serve only as access and have no platform where users might stop. They are set in from the joint boundary, limiting their impact. By contrast, the appeal staircase and platform enables people to linger at elevated points and allowing for and increasing perceptions of overlooking.
15. The loss of privacy will be keenly felt by occupiers of No 28, as the presence of people on the staircase, who may pause creates a sustained sense of overlooking. This undermines the comfortable use of both the garden and internal habitable rooms. The harm arises directly from the siting of the staircase and would be experienced regularly, resulting in a material and unacceptable effect on the occupiers' living conditions.
16. The property at No 28 lies towards the west of the appeal site. As the sun moves westward, the fence presents a substantial vertical obstruction along the eastern edge of the No 28's plot, which would casting a pronounced shadow across the garden and towards the rear elevation of the dwelling. Given its height and mass, the shadow would extend well beyond the lesser used area adjacent to the boundary.
17. Prolonged overshadowing during the afternoon and early evening would occur particularly at times when garden space is most likely to be used. However, I find

the proposal does not cause undue harm to the rear facing rooms of the dwelling, as the lower ground floor is enclosed by its own raised balcony and the upper windows are positioned too high to be significantly affected.

18. The combined effects of reduced daylight and sunlight, together with the fence's length, height, and design, results in a visually intrusive and strongly enclosing structure when experienced from the neighbouring garden. However, despite some retained sky views, its scale and proximity dominate the outlook, which is a separate matter from daylight and sunlight, with a particularly pronounced effect on the lower ground-floor areas of No 28 and garden. Overall, this undue enclosure diminishes the enjoyment and usability of both the neighbouring garden and the dwelling.
19. I conclude the development is harmful to the living conditions of the occupiers of No 28. Consequently, the development conflicts with Policies DC1 and CS5 of the Core Strategy where they seek to ensure development does not undermine the quality of life and have minimal effect on occupiers of nearby properties. The development is also not in accordance with the SPD, which seeks to ensure neighbouring properties are not dominated by development and highlights that privacy is an important principle.

Other Matters

20. I observed that a balcony exists at No 22 and one has also been approved at No 26⁵. However, no substantive details of that permission have been provided, significantly limiting the weight that can be attached to it. In particular, I do not know what previously existed on the site or the specific circumstances under which approval was granted. I could see that the other balconies did not have the same combination of features as the development before me and therefore do not affect my conclusions or justify development that is harmful.
21. I have considered whether a landscaping condition could address the identified harms; however, any planting would necessarily be within the garden or on the staircase of the appeal property. As such, it would not materially mitigate the effects on daylight, sunlight, or outlook experienced by the occupiers of No 28.
22. While it is claimed the staircase was required to replace an unsafe structure, there is no substantive evidence that its current siting or form was the only or most appropriate option. No convincing evidence has been provided as to why a less harmful design or location could not have been achieved. I cannot therefore be confident that the chosen arrangement represents the least intrusive solution to the stated safety concerns.
23. The fence provides some increased privacy to the appellant within parts of the garden and along the staircase. However, those limited privacy benefits do not outweigh the harm caused to the character and appearance of the area. Nor do they outweigh the harm to neighbouring living conditions, including the loss of privacy experienced within the dwelling and garden of No 28.

Conclusion

24. For the reasons given above, the appeal development is contrary to the development plan as a whole, and material considerations do not indicate that the

⁵ Planning Application Reference: 23/0628/FUL

appeal should be determined otherwise than in accordance with it. 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.

Formal Decision

25. It is directed that the enforcement notice is corrected in Section 5 by:

- the deletion of the word, “deckng” and its replacement with the word, “decking” in Section 5 ; and
- the deletion of the word, “takng” and its replacement with the word, “taking”.

26. Subject to the corrections, 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.

K Williams

INSPECTOR