



Appeal Decisions

Inquiry held on 14 - 16 April 2026

Site visit made on 15 April 2026

by **Andrew McGlone BSc MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13th May 2026

Appeal A Ref: APP/C3430/C/25/3376745

Land to the front of The Paddocks, Meadow View and The Stables, Mile Flat, Greensforge, Kingswinford DY6 0AU

- The appeal is made under s174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Steven Sankey against an enforcement notice (EN) issued by South Staffordshire District Council on 5 November 2025.
 - The breach of planning control as alleged in the EN is without planning permission, the construction of boundary structures over one metre in height from ground level adjacent to the highway comprising of walls, seventeen pillars and three access gates (hereinafter referred to as the "Boundary Structures" for the purposes of this Notice) spanning a total distance of approximately 110 metres from The Stables at the north to The Paddocks at the south, located in the approximate position coloured blue on the Plan attached to this Notice.
 - The requirements of the EN are to:
 - (i) demolish the entire Boundary Structures (walls, seventeen pillars and three access gates) including any footings;
 - (ii) following compliance with (i) above, return the land to its previous condition; and
 - (iii) remove from the Land all materials arising from compliance with i) and ii) above.
 - The period for compliance with steps (i), (ii) and (iii) is six (6) months from the date this EN takes effect.
 - The appeal is proceeding on the grounds set out in s174(2)(a), (c), (d) and (f) of The Town and Country Planning Act 1990 (as amended) (the Act). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under s177(5) of the Act (DPA).
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Appeal B Ref: APP/C3430/C/25/3376746

Appeal C Ref: APP/C3430/C/25/3376747

Appeal D Ref: APP/C3430/C/25/3376748

Appeal E Ref: APP/C3430/C/25/3376749

Land to the front of The Paddocks, Meadow View and The Stables, Mile Flat, Greensforge, Kingswinford DY6 0AU

- The appeals are made under s174 of the Act and by Mrs Tracey Sankey (Appeal B), Mr Christopher Sankey (Appeal C), Mrs Alex Foley (Appeal D) and Mr Ryan Sankey (Appeal E) against an EN issued by South Staffordshire District Council on 5 November 2025.
 - The breach of planning control as alleged in the EN is without planning permission, the construction of boundary structures over one metre in height from ground level adjacent to the highway comprising of walls, seventeen pillars and three access gates (hereinafter referred to as the "Boundary Structures" for the purposes of this Notice) spanning a total distance of approximately 110 metres from The Stables at the north to The Paddocks at the south, located in the approximate position coloured blue on the Plan attached to this Notice.
 - The requirements of the EN are to:
 - (i) demolish the entire Boundary Structures (walls, seventeen pillars and three access gates) including any footings;
 - (ii) following compliance with (i) above, return the land to its previous condition; and
 - (iii) remove from the Land all materials arising from compliance with i) and ii) above.
 - The period for compliance with steps (i), (ii) and (iii) is six (6) months from the date this EN takes effect.
 - The appeals are proceeding on the grounds set out in s174(2)(c), (d) and (f) of the Act.
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Decisions

1. Appeal A is allowed, the EN is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act for the development already carried out, namely the construction of Boundary Structures spanning a total distance of approximately 110 metres at land to the front of The Paddocks, Meadow View and The Stables, Mile Flat, Greensforge, Kingswinford DY6 0AU subject to the following condition:
 - 1) The operations hereby permitted shall be demolished and all materials brought onto the land for the purposes of the operation and materials resulting from the demolition shall be removed within 3 months of the date of failure to meet any one of the requirements set out in a) to d) below:
 - a) Within 3 months of the date of this decision a detailed section drawing confirming finished wall height relative to adjacent highway level in broad accordance with plan ref: 1257 WG302 – Option F shall have been submitted for the written approval of the local planning authority, and the scheme shall include a timetable for implementing the reduction in the wall's height.
 - b) If within 7 months of the date of this decision the local planning authority refuse to approve the section drawing or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the secretary of state.
 - c) If an appeal is made in pursuance of b) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - d) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved section drawing, the wall shall thereafter be retained in accordance with the approved section drawing.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
2. Appeals B, C, D and E are dismissed but the EN is quashed as set out in the decision for Appeal A.

Reasons

The appeals on ground (c)

3. The appeal on ground (c) is that those matters stated in the EN do not constitute a breach of planning control. The appellant contends in this case that part of what is alleged was granted planning permission. On this ground, the onus rests with the appellant to make out their case to the standard of the balance of probabilities.
4. A planning permission should stand by itself, and its meaning should be clear from the four corners of the document given that it is a public document. So, the approach to adopt is what a reasonable reader would understand the words to mean in the overall context of the planning permission and with common sense. A full planning permission does not claim to be a complete and self-contained description of the development permitted, so it is reasonable to look at the planning

conditions on the decision notice in tandem with the approved plans, given that planning conditions must be imposed when granting planning permission if it is considered necessary to restrict or constrain the type of development or the way in which the development takes place.

5. The EN relates to three detached dwellings that front Mile Flat. From north east to south west the dwellings are: The Stables, Meadow View and The Paddocks. The appeal site has a detailed planning history, but for the purpose of the ground (c) appeals, my focus relates to the planning history associated with The Stables and Meadow View. This is because the appellants claim that part of the boundary structures stated on the EN complies with the terms and conditions of an extant planning permission, which was instigated or begun during the relevant time period, and the development was not commenced in breach of a 'condition precedent'.
6. Planning permission was granted on 22 July 2020 for "2no. proposed replacement house-types"¹ subject to various planning conditions (the 2020 permission). A subsequent application to discharge planning conditions 3, 4 and 5 on the 2020 permission was made. The Council issued a split decision discharging conditions 3 and 5 but not conditions 4 and 7². The Council also refused planning permission on 28 April 2021 for "proposed boundary wall and gates to main road frontage"³.
7. Further, an appeal⁴ was made under section 73 of the Act to vary condition 9 on the 2020 permission after the Council had refused permission. Condition 9 restricts the use of permitted development rights in Classes A, B, C and D of Schedule 2, Part 1 of The General Permitted Development (England) Order 2015 (as amended) (GPDO), and Class A of Schedule 2, Part 2 of the GPDO. In allowing the appeal a new planning permission was granted⁵ (the s73 permission), and the Inspector imposed all the conditions that they considered to remain relevant and a modified version of condition 9 (condition 8 on the s73 permission) restricting the use of Class A of Schedule 2, Part 2 of the GPDO. The operative part of the s73 permission was unchanged from the 2020 permission.
8. Despite the grant of the s73 permission, the 2020 permission was not at risk, and it is intact and unamended. But the appellants confirmed at the Inquiry that the development at The Stables and Meadow View has been carried out based on the s73 permission. The s73 permission imposed an identical approved plans condition to the 2020 permission. Thus, the development permitted was to be completed in accordance with the plans listed in condition 1 on the s73 permission. But the Inspector's reasoning for the s73 permission focused on the disputed condition which was subject of the application. The reason for that lies in section 73(2) of the Act, and the appeal decision was not a reconsideration of the planning application.
9. While the Council says that no planning permission has been granted for anything but the two-replacement house-types, that ignores the bell mouth arrangement and boundary treatment shown on plan ref: 1257-400 Rev A⁶ in front of The Stables and Meadow View. The Council accepted through questioning that some of the detail shown on this approved plan (conditioned on the s73 permission) matched the detail shown for the external walls of the dwellings, and therefore that the plan shows two curved sections of wall with pillars / piers at either end of each section

¹ Ref: 20/00406/FUL

² Ref: 20/00406/COND

³ Ref: 20/00224/FUL

⁴ Ref: APP/C3430/W/21/3278322 (21/00472/VAR)

⁵ CD3

⁶ CD9

before a gate opening inwards. I agree, and I consider the location of the arrangement shown on plan ref: 1257-400 Rev A to reflect the location of this part of the boundary structure on the ground.

10. However, beyond the location and layout of this part of the boundary structure on plan ref: 1257-400 Rev A, the conditioned approved plans do not provide any details of the structure's height, its elevational treatment and what materials were to be used, for example.
11. Condition 4 on the 2020 permission, which became condition 3 on the s73 permission, required the submission of a scheme showing the new means of enclosure or details of retained boundary treatments for approval by the Council. Condition 4 was not discharged but given the grant and implementation of the s73 permission, this is no longer relevant. Condition 3 on the s73 permission required a scheme of additional trees and shrubs, new means of enclosure or details of retained boundary treatments to be submitted before development commenced. However, the development had already commenced by the time of the Inspector's decision given that they did not impose a time limit condition on the s73 permission. As such, the main parties agree that condition 3 on the s73 permission could not have lawfully been imposed, as it was a pre-commencement condition relating to a retrospective development, and that this condition cannot be enforced and it cannot be breached. I have no reason to consider otherwise.
12. Various concessions were made by the Council in their cross-examination. I have, however, reached my own view. The boundary structure in front of The Stables and Meadow View was present in some form when the Inspector visited the site, and the s73 permission may well have been retrospective, but the Inspector's approach was in line with section 73(2) of the Act to only consider the disputed condition. It was not a reconsideration of the proposal, so no other development or additional detail, such as the height or elevational detail of the boundary structure, was up for consideration even if it were present on the ground. No other detail was submitted or provided by the appellants either, so the Inspector's reasoning and the imposition of the same approved plans condition is unsurprising.
13. However, the s73 permission did, like the 2020 permission, grant planning permission for the location and arrangement of the bell mouth in front of The Stables and Meadow View, but nothing more. There have never been any details of the height and elevational detail of the structure, and the imposition of condition 3, notwithstanding the deficiencies with it, bears this point out, and this point remains, regardless of how complete the boundary structure in front of The Stables and Meadow View was when the appeal was considered.
14. For these reasons, I do not consider that part of the boundary structure complies with the terms and conditions of the s73 permission. Also, permitted development rights under Class A of Schedule 2, Part 2 of the GPDO were removed by the s73 permission, and the bell mouth, beyond the location and arrangement of it, was built in the absence of planning permission for all the details relating to it. The part of the boundary structure in question is therefore 'development' having regard to s55(1) of the Act as the works were a 'building operation' that was undertaken by a person carrying on business as a builder. Hence, the appeals on ground (c) fails.

The appeals on ground (d)

15. An appeal on ground (d) is that, at the date the EN was issued, no enforcement action could be taken in respect of any breach of planning control which may be

constituted by the matters. The appellants claim that what is alleged in the EN is immune from enforcement action, having subsisted for the relevant period laid down by s171B of the Act.

16. The onus on this ground rests with the appellants to make out their case to the standard of the balance of probabilities, which is whether something is more likely than not. I am mindful that evidence should not be rejected out of hand because it is uncorroborated, and that if the Council does not have its own evidence, or from others, to contradict or otherwise make the appellants' version of events less than probable, there is no good reason for ground (d) to fail, provided the appellants' evidence alone is sufficiently precise and unambiguous to justify success on this ground on the balance of probability.
17. I have considered the written and oral evidence given by each witness as they gave their evidence on the affirmation, and each witness was cross examined.
18. Given the transitional provisions⁷, and when the development was substantially completed by the amendments made to s171B of the Act on 25 April 2024 do not apply in this case. Therefore, under the relevant revision of s171B(1), no enforcement action may be taken in respect of any unauthorised operational development after the end of the period of 4 years beginning with the date on which the operations were substantially completed. As a previous EN was issued on 24 July 2025 and withdrawn by the Council, the EN subject of this appeal is a 'second bite' EN pursuant to s171(4)(b) of the Act. Hence, the boundary structure would need to have been substantially completed by 24 July 2021.
19. The judgement in *Sage v SSETR & Maidstone BC* [2003] UKHL 22 is relevant to my determination of when the operations described in the EN were substantially completed. Regard needs to be had to the totality of the operations which the appellants originally contemplated and intended to carry out. In this case, the boundary structure was a single act of development because of how it was constructed as a single progressive development starting in front of The Stables and working along to The Paddocks.
20. Plan ref: 1257-400 Rev A supports the appellants' intention to construct boundary walls, pillars and an access gate in front of The Stables and Meadow View. Those design principles, save for details of the height and appearance of the wall and gates, were intended for the remainder of the boundary in front of the three properties given the uniformity and design of the boundary structure in situ.
21. The appellants say that, for the boundary structure to be substantially complete, the blockwork, coping stones, capping stones, piers and gates would need to be complete for the whole length of the boundary structure. They contend that the cladding to the piers and the render to the wall do not affect whether the boundary structure is substantially complete. The Council concur with this assessment but consider that a final coat of render would need to be applied and the cladding to the piers, unless materials had run out and minor works to finish these remained.
22. The render and cladding to the piers were originally contemplated by the appellants as the external finish to the boundary structure given the use of blockwork for the walls and piers. The blockwork was not to be left as it was, and the rendering and cladding could only be completed after the blockwork, coping stones, capping stones and piers had been finished for the whole structure. Therefore, all these

⁷ The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024

- parts of the boundary structure, along with the installation of the three gates, needed to occur for the boundary structure to be substantially complete, as they were all part of the development originally contemplated and intended to be carried out by the appellants to form the single enclosure across the three houses.
23. The boundary structure was substantially completed by February 2022 at the latest, based on Historic England's photographs. The question is whether it was substantially complete earlier and by the relevant date.
 24. In March 2021, excavations in front of Meadow View had been carried out, but the street view image does not support the appellants' claim that more extensive excavations had been carried out by this time given the presence of the hedgerow in front of The Paddocks. An aerial image from April 2021 also shows the hedgerow still in place and no sign of excavations in front of The Paddocks. This evidence is not critical, but it makes the appellants' version of events here less than probable.
 25. By 16 April 2021 a low block wall had been formed in front of The Stables and Meadow View. Aerial images from April 2021 show that less than 50% of the overall boundary structure had even been constructed. Works then continued through May 2021, but unlike in their signed witness statements, the appellants' witnesses accepted at the Inquiry that they were not 'nearing completion' in this month. This makes the appellants' version of events less than probable. The hedge in front of The Paddocks, which the appellants accept needed to be removed to facilitate the development, was still in situ on 7 May 2021.
 26. The evidence between May 2021 and 8 July 2021 in the form of the officer report for the s73 permission and the appellants' appeal statement in respect of the same application does not help clarify matters, as they are contextualised in what 'could' happen rather than what 'has' happened.
 27. The photographs (8 July 2021) show that works had moved on in terms of the section of boundary structure in front of The Stables and Meadow View, but the images show that the piers had not been clad and the gate had not been hung. The appellants say that by this point, the whole boundary structure was rendered with a cement base, and that the final render was applied to that wider extent of wall within a day or so of that. The photographs do not show this, as only part of the overall boundary structure is visible, so it is impossible to say whether all the structure is in the same state. But, even if it were, the boundary structure was not substantially complete then as at least one of the three gates was not installed.
 28. Nevertheless, the appellants builder Mr Wotton confirmed orally that his team would be capable of applying stone cladding to 4 piers per day, which would mean taking the best part of a week to complete all 17 piers. Using the 8 July 2021 photographs as a rough starting point (best-case scenario) and applying Mr Wotton's building experience, all the piers could not have been clad until some point around the 15 July 2021 at the earliest.
 29. The appellants' confirmed at the Inquiry that the gates could only have been hung after the piers were clad. The appellant (Appeal A) explained that by mid-July the rendering and cladding were complete and the electrics and gate motors/footplates installed, ready for the gates to be hung. Mr Higgs, for the first time, stated orally that he visited the site on 14 July 2021 during his regular visits over the course of the build. He recalled seeing stone cladding, pier caps, coping stones, and the final render coat but was unable to confirm whether the gates had been installed. Given the size and number of the gates, it is highly unusual that he cannot recall if they

had been hung bearing in mind his other recollections. As such, this does not amount to clear and unambiguous evidence that the boundary structure was substantially complete by that date. Moreover, the evidence of Mr Wotton and Mr Higgs lacks consistency and precision and at best indicates that only a proportion of the piers had been clad by 14 July 2021.

30. The appellants say that it is likely that the gates were hung in the days immediately after 14th July 2021 when works had finished to the wall. They also say that the three gates would just need to be physically hung, so a day or so's work remaining. However, they could only have been hung sometime after 15 July 2021 based on Mr Wotton's evidence. Yet there is no evidence of when the gates were delivered or hung. Given their number, size and likely cost, it strikes me that someone would need to be or wish to be present on site to take delivery of the gates and either make arrangements about where to store them until they were fitted or have at least someone fit them upon arrival at the appeal site. There is no evidence before me to set out what happened, and it is unrealistic that there were no arrangements made and that there are no records of that, especially given the purpose behind the boundary structure.
31. The total cost of the boundary structure was in the region of £120,000. An invoice dated 21 January 2021 for £40,000 was issued by Mr Wotton, with a second invoice dated 19 May 2021 for £60,000. This second invoice was not, as originally claimed, a final stage payment. It is logical, based on the sums involved and the appellants' concession, that there was at least another invoice. However, no other invoices have been submitted by the appellants. They may have involved other works given the range of work being undertaken by Mr Wotton, but the absence of any other invoices places doubt on the appellants' chronology of events.
32. Overall, the evidence leads me to find that there is not sufficient precise and unambiguous about when the boundary structure was substantially completed, even based on the appellants' interpretation of what that phrase means in this case. The appellants' witnesses could not precisely and unambiguously say when the gates were installed, save for assertions that they must have been hung shortly after 14 July 2021. That, however, relies on the gates being ready, delivered and personnel available to hang them given their size. The appellants' evidence is not robust in that sense, and given the purpose for the boundary structure and security concerns, the appellants' evidence is unconvincing and patchy.
33. I therefore conclude that the appellants' have not demonstrated, on the balance of probabilities, that the boundary structure was substantially completed by 24 July 2021 and that, at the date that the EN was issued, no enforcement action could be taken in respect of any breach of planning control constituted by the matters stated in the EN. Thus, the appeal on ground (d) does not succeed.

Appeal A on grounds (a) and (f) and Appeals B – E on ground (f)

34. An appeal on ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the EN, planning permission ought to be granted.
35. The main parties agree that the proposal is inappropriate development in the Green Belt, having regard to development plan policy and the National Planning Policy Framework (the Framework). There is also no disagreement that the proposal does not conflict with any of the Green Belt purposes. Therefore, the main issues are:
 - the proposal's effect on the openness of the Green Belt;

- the proposal's effect on the character and appearance of the area, including the Staffordshire and Worcestershire Canal Conservation Area (CA) and Roman Camps at Greensforge, a Scheduled Monument (SM); and
- given that the proposal is inappropriate development, whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.
 - a) security and crime;
 - b) local precedent;
 - c) human rights – article 1 of the First Protocol and article 8; and
 - d) fallback position relating to The Paddocks

36. Appeals A - E on ground (f) are that the steps required by the EN exceed what is necessary to achieve its purpose to remedy the injury to amenity. However, enforcement action is intended to be remedial rather than punitive. With a ground (a) included in Appeal A, it would be possible to grant planning permission for part of the matters stated in the EN to constitute the breach of planning control in accordance with the provisions of s177(1) of the Act. It is apparent to me that consideration of Appeal A under grounds (a) and (f) requires the detailed consideration of the six options put forward by the main parties. But the planning merits cannot be considered in relation to Appeals B, C, D and E as ground (a) has not been made on those appeals. Therefore, I am unable to consider the six alternative options put forward through ground (f) in those appeals, as they all involve considering the merits of those options. I have not considered ground (f) any further in relation to Appeals B, C, D and E as a result.

37. For Appeal A, the six alternative options to the development subject of the EN can be summarised as follows:

- a) demolish the boundary structures to ground level, retain the foundations and return the land to its previous landscape condition;
- b) colour tone the walls and piers in grey (RAL7044);
- c) enhanced landscaping at the bell mouth of the three accesses;
- d) reduce the height of the boundary structure to 1m, save for the sections of wall, gate piers, and gates at the bell mouths;
- e) selective retention of the boundary structure and infilling between piers; and
- f) reduce the boundary structure to 1 metre, save for the gate piers and gates⁸.

38. Each of the options are part of the matters alleged by the EN and are achievable by imposing a planning condition notwithstanding the merits of each option.

39. The Council's witness accepted in cross-examination that it was common ground that the boundary structure should, in some form, be granted planning permission. Noting that position, the parties dispute the extent of what should be granted planning permission because of the different effects of the proposal or the alternative options. However, the party's agreement means that I do not need to consider option a) given that only the foundations would remain in this alternative.

⁸ CD2 – this option reflects the Council's suggestion to the Appellants in an email dated 25 March 2025

40. For clarity options b) to f) would be inappropriate development in the Green Belt, having regard to development plan policy and the Framework. However, none of these options would conflict with any of the Green Belt purposes.
41. I shall consider the development subject of the EN first in relation to each main issues, then the alternative options in order of the appellant's preference.

Openness

42. Openness has a visual and spatial aspect. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
43. Given the position of the boundary structure in front of the dwellings, their accesses and the areas of hardstanding, a spatial loss of openness has not been caused. However, the considerable length of the structure, allied with its height and solid form, means that it has caused a visual loss of openness given the land surrounding the appeal site is relatively flat and the former boundary treatments to the site. Moderate harm has been caused to the openness of the Green Belt.
44. Option c) – this boundary structure would continue to harm the openness of the Green Belt, as its extent, form and height would remain unchanged. Additional landscaping at the bell mouths could soften the appearance of those sections, but gaps would remain in the landscaping for each access. Further, even if additional landscaping were added there is no certainty that it would remain in situ or in a condition that would provide a visual screen of the boundary structure. Therefore, the extra landscaping would not alter an assessment of moderate harm.
45. Option b) – colouring the boundary structure would not alter the moderate harm caused to the openness of the Green Belt even though the proposed colour would be more subtle, as its extent, form and height would remain unchanged.
46. Option d) – reducing the height of the sections of the boundary structure between the bell mouths would reduce the harm to the openness of the Green Belt because the structure would be less dominant in visual terms and enable filtered views through to the land beyond. A limited degree of harm would be the result.
47. Option e) – retaining parts of the boundary structure as built and infilling parts between the piers with either timber fencing or railings would maintain the scale and height of the structure, albeit railways would allow views through given that they would not form a solid enclosure. However, the change between the piers, even if the height were reduced slightly, would not alter this option's harmful effect on the openness of the Green Belt. The degree of harm would be moderate.
48. Option f) – reducing the boundary structure's height would mean a less dominant visual structure and enable views over it to the land beyond. This effect would be aided by changes to reprofile the walls on either side of each gate to maintain a lower section for as long as possible before transitioning to the existing gate piers. The degree of harm caused by option f) would be negligible to limited.

Conclusion on this main issue

49. The proposal or the alternative options conflict/would conflict with Core Policy 1 and GB1 of the South Staffordshire Core Strategy December 2012 (CS) and Framework paragraph 142 due to their effects on the openness of the Green Belt.

Character and appearance and heritage assets

50. While the materials used for the boundary structure differ from the red brick found

elsewhere on Mile Flat, the appearance of the boundary structure reflects that of the three dwellings in front of which it stands. Thus, it is not out of kilter with its surroundings despite the gap between the boundary structure and the front elevations of the dwellings. That said, the scale and height of the boundary structure has created an uncompromising solid enclosure alongside the road, which is out of kilter with the local area's open character, and it does not positively contribute to the street scene. This is despite it being subordinate to the scale and massing of the three dwellings and respectful of the space around the buildings. Landscaping in front and behind the boundary structure has grown to soften the structure, but this is not universal across the site's frontage, and the landscaping cannot be relied upon to always be of a certain height and condition. Hence, the boundary structure is harmful to the character and appearance of the area.

51. Option c) – would soften the appearance of the boundary structure at the bell mouths, but their scale and height would remain harmful to the street scene, particularly as the height and condition of the landscaping could not be secured or maintained in perpetuity.
52. Option b) – colouring the boundary structure grey would lessen its prominence in the street scene, but as with the proposal subject of the DPA, the scale and height of the boundary structure would not positively contribute to the street scene.
53. Option d) – reducing the height of part of the boundary structure would result in a less dominant structure and the rural character of the area. However, this option would still be harmful, and it would not positively contribute to the street scene given that the height of the three bell mouths would be unchanged, which would, given their position, draw the eye to the structure's overall scale.
54. Option e) – reducing part of the boundary structure's height and adding infill panels (fencing or railings) between the piers would still give rise to a boundary structure with a scale and height that would not positively contribute to the street scene.
55. Option f) – taking the boundary structure down to a metre high and re-profiling the sections next to the gate piers would reduce the structure's height and scale. With suitable materials, this option could positively contribute to the street scene without undue direct or indirect effects to the existing landscaping.
56. The CA lies around 275 metres from the site. Its boundary relates closely to the canal and its passage through the landscape, which means that its setting varies along its length. The CA's significance derives from its links with the industrial activity in the Midlands, and its bridges, locks, cottages, walls and towpath form part of its special interest. Vegetation lines the canal corridor, creating a verdant character. Local topographic changes and the intervening distance means that there is no direct visibility between the CA and the appeal site. Together with the CA's enclosed nature and setting, it means that the proposal has and the alternatives would have a neutral effect on the CA. Thus, the proposal conserves, and the alternatives would conserve the character and appearance of the CA.
57. The Roman military complex at Greensforge (60AD – 80AD) comprises of two forts and five marching camps, lying between the narrow and marshy valley of the Smestow Brook to the west and the broad valley of the Dawley Brook to the south-east. The location provides excellent defensive positioning against a threat to the west, and, as such, the SM provides an important insight into Roman military strategy and organisation. Roman forts are rare nationally and were bound by a single earthen rampart and outer ditch, with between one and four entrances

usually centrally placed in the sides of the camp and often protected by additional defensive outworks. The SM contains important archaeological and environmental evidence relating to the Roman military strategy and occupation of the period.

58. No assessment took place before the development occurred, and there is no evidence about what, if anything, was encountered when works took place to build the boundary structure. Nonetheless, the boundary structure and the identified alternatives lie outside, albeit adjacent to, the SM. They extend away from the SM such that most of their length is/would be some distance from it. Given their narrow form, the boundary structure and the alternatives have a low potential to disturb archaeological remains. However, they lie within the setting of the SM, which comprises largely open rural countryside interspersed with pockets of development along Mile Flat. The boundary structure interrupts the area's character, but that is also informed in the immediate surroundings by the three dwellings, outbuildings, hardstanding and domestic paraphernalia. The boundary structure (and the alternatives) contains, or they would contain, the influence of these existing features on the SM's setting. Thus, the boundary structure has, and the alternatives have a neutral effect on the SM's significance. While fencing continues along the site's frontage and returns into the site, this is not the subject of the EN.
59. I conclude on this issue that the proposal conflicts with CS Policies EQ4 and EQ11 and the South Staffordshire Design Guide (Design Guide). Options b), c), d) and e) would conflict with these policies and guidance also. Jointly, these seek, among other things, development to positively contribute to the streetscene in terms of scale and massing, having regard to the characteristics and sensitivity of the landscape and its surroundings. However, I also conclude that option f) would accord with CS Policies EQ4 and EQ11 and the Design Guide.

Other considerations

60. The appellant has cited Article 8(1) and Article 1 of the First Protocol of the Human Rights Act 1998 (HRA). The former says that everyone has the right to respect for his private and family life, his home and his correspondence, whilst the latter says that everyone is entitled to the peaceful enjoyment of his possessions. Even so, both are qualified rights which I have kept at the forefront of my mind in this case.
61. The appellant (Appeal A) considers the boundary structure necessary to protect his family living in the three dwellings, where natural surveillance is limited. It is intended to deter trespass and crime, control vehicular access, and safely contain working security dogs, which could not otherwise be prevented from accessing the road frontage. The boundary structure forms part of a wider package of security measures. When the access gates are closed, vehicular access from Mile Flat is prevented, and a secure area is created for the dogs to operate.
62. Crime data for this location is difficult to interpret, as applying a radius from the site captures parts of an urban area. That said, the appellant referred to several recent local incidents, including one involving his family shortly before the Inquiry. That incident clearly supports the appellant's concerns and explains the rationale for the boundary structure and other security measures. However, the images also demonstrate that the boundary structure did not, on its own, prevent access to the properties on foot and that the absence of security dogs and the disabling of other measures meant they did not deter the intruders on this occasion.
63. Given the appellant's experience, it is unlikely the wider security measures, such as

the security dogs will either not be present or disabled in the future. Therefore, even if access were to be obtained from other points around the site, persons ought to be deterred from criminal activity. The boundary structure in situ means that the security dogs cannot access the road. Options b), c) and e) would also achieve this. Options d) and f) would mean that sections of the boundary structure would be lower, which the security dogs could potentially jump over, but the landscaping in situ would deter this from happening, especially as those dogs will be more disciplined animals. Therefore, the proposal and the various options carry substantial positive weight in favour of the appeal, as they would help the appellant and his family enjoy the peaceful enjoyment of their possessions and their privacy.

64. The appellant refers to the boundary wall at Mile Flat House, around 150 metres northeast of the site, as justification for the boundary structure. While that wall contrasts sharply with the rural character and openness of the lane, it is present in the area and benefits from planning permission. Even so, the boundary structure as built and options b), c), d) and e) would have a more harmful effect than the boundary at Mile Flat House due to their overall length, despite their external finishes. Option f) would also be longer than the Mile Flat House wall but lower in height except at the access points (also lower than option d)), where it would be comparable. While the materials differ, their overall effect would be the same.
65. I have explained in relation to the ground (c) appeals that planning permission does not exist for part of the boundary structure beyond the location of the bell mouth and gate in front of The Stables and Meadow View. Even so, the boundary structure in situ is greater in scale and significantly more harmful than the fallback position relating to the bell mouth in front of The Stables and Meadow View. The fallback position does not therefore justify the proposal's effect.

Other Matters

66. Matters relating to whether Scheduled Monument Consent was required for the boundary structure, or would be required for any alterations to it, fall within a separate regulatory regime outside the planning system and are for the parties to address if necessary.
67. The appellant states that options d), e) and f) would be less sustainable as they will involve demolition and loss of materials. While that would be the case, they do not outweigh the legitimate aims of protecting the Green Belt, the amenity of the area, the integrity of the decision-making process, and public confidence in that process.

Conclusion on ground (a)

68. The proposal and the alternatives is/would be inappropriate development, which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The proposal and the alternatives also harm or would harm the openness of the Green Belt to different extents. The proposal and all the alternatives, save for option f), would harm the character and appearance of the area, though none of the alternatives of the proposal would harm the designated heritage assets. The Green Belt harm attracts substantial weight, and very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
69. However, the context to why the proposal and the alternatives are/would be inappropriate development, and harmful to the openness of the Green Belt is the permitted development restriction. Yet, a planning condition was imposed on both

the 2020 permission and the s73 permission to secure details of means of enclosure. Despite the merits of the condition imposed on the s73 permission, there was to be some form of boundary treatment around the appeal site. That includes its front boundary, as is ordinarily the case for new residential development. Therefore, the fact that the proposal and the alternatives is/would be inappropriate development is a technical point rather than one of substance, albeit it does not change the substantial weight that I must attach to the Green Belt harm.

70. Weighing the pros and cons of the proposal and the alternatives is not a mathematical exercise, and each does, or would have, different effects that I have explained in respect of each main issue. Hence, the outcome when the other considerations are taken into account is not the same. In respect of the proposal and options b), c), d) and e), all the other considerations do not clearly outweigh the identified harm. Thus, the very special circumstances necessary to justify the development(s) do not exist in this instance, and the material considerations do not indicate that I should not take a decision other than in accordance with the development plan. Interference with Article 8(1) and Article 1 of the First Protocol of the HRA in these cases would accord with the law and be in pursuance of a well-established and legitimate aim of protecting the Green Belt.
71. However, in the case of option f), I consider the other considerations clearly outweigh the identified harm. Therefore, the very special circumstances to justify the development exist. This means that option f) accords with CS Policy GB1, and, thus, the development plan. There are no material considerations that indicate that I should take a decision other than in accordance with the development plan. In this instance, there would be no interference with the rights of the appellant and his family as set out in the HRA. Given option f)'s acceptability, I have not, therefore, combined it with any other option.

Condition

72. Given my conclusion, it is necessary to impose a planning condition so that the boundary structure is altered to achieve option f) within a reasonable time period. To ensure those works are satisfactory and there are precise details of what is to be undertaken by the appellant, a scheme needs to be submitted to and approved by the Council along with a timetable for implementation of option f). Although this is a remedial measure, it is necessary given my findings about the proposal and the other alternatives to include a requirement that the boundary structure is removed in the event of non-compliance with any of the steps set out in the condition.

Conclusions

73. For the reasons given above, I conclude that Appeal A succeeds on ground (a). I shall grant planning permission for the construction of boundary structure spanning a total distance of approximately 110 metres from The Stables at the north to The Paddocks at the south, located in the approximate position coloured blue on the plan as described in the EN. The EN will be quashed. In these circumstances Appeal A on ground (f) does not fall to be considered.
74. I conclude that Appeals B, C, D and E are dismissed, but the EN is quashed for the reasons relating to Appeal A.

Andrew McGlone

INSPECTOR

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INQUIRY DOCUMENTS

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| ID1 | Bundle of 4 security camera images and a client job sheet |
| ID2 | Appellants opening submissions |
| ID3 | Council opening submissions |
| ID4 | Plan Ref: 1257 WG300 – Option B |
| ID5 | Plan Ref: 1257 WG301 – Options C, D and E |
| ID6 | Plan Ref: 1257 WG302 – Option F |
| ID7 | Council closing submissions |
| ID8 | Appellants closing submissions |