

Appeal Decision

Site visit made on 12 May 2026

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 26th May 2026

APP/M4320/C/25/3371666

20 Sandringham Road, Formby L37 6EQ

- The appeal is made by Ms Helen Worthington under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by Sefton Metropolitan Borough Council.
- The enforcement notice was issued on 22 July 2025, reference: EN/2024/00458. The appeal was made on 22 August 2025.
- The breach of planning control alleged in the notice is, without planning permission, the Erection of a fence in excess of 1 metre in height within the curtilage of the property.
- The requirement of the notice is to: Remove the fence (approximate location shown edged in blue on the plan, entitled “fence plan”, attached to the enforcement notice.
- The period for compliance with the above requirement is one month.
- The appeal is proceeding on the grounds set out in section 174(2)(e), (f) and (g) of the Town and Country Planning Act 1990 (as amended), (the Act).

Summary of decision:

The enforcement notice is varied and upheld.

Appeal project

1. The enforcement notice property, No. 20 Sandringham Road, Formby, is a single story semi-detached dwelling in a row of similar properties. Most of the dwellings' front gardens have low brick-built boundary walls and piers to the road footway.
2. The enforcement notice acts against black timber boundary fencing almost 2m high that had been erected along the road fronting boundary and along front garden side boundary of No. 20 with that on the adjoining dwelling at No. 22. At the time of my visit, some of this fencing appeared to have been removed.

The appeal on ground (e)

3. An appeal on ground (e) asserts that copies of the enforcement notice were not served as required by s.172 of the Act.
4. S.172 says a copy of an enforcement notice shall be served — (a) on the owner and on the occupier of the land to which it relates; and (b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.
5. The Appellant, Ms Helen Worthington, said the notice had not been validly served on every interested party. There was a “first ranking charge held by 3rd party M Brodtman” not served. That failure constituted substantial prejudice to their interest in the property. The enforcement notice should be declared invalid.
6. The Council said Michael and Naomi Brodtman did not have a “first ranking charge”. They held only an interim charging order made by the County Court

Money Claims Centre on 22 August 2019, (Court ref: F1PP7958), entitling the party to a beneficial interest in the value of the property.

7. I agree with the Council's effective application of s.176(5) of the Act – Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, (as for a ground (e) appeal), that the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him. There are reasonable limits to how far a local planning authority needs go in identifying the owners, occupiers and persons having an interest in the land. The case of *Newham LBC v Miah* [2016] EWHC 1043 (Admin) is authority for the view that a land registry address is proper service if a local planning authority has not been given another address. The local planning authority does not need to check with other Council departments; the statutory framework points to the knowledge of the local planning authority as relevant for the service of the enforcement notice.
8. Whilst Ms Worthington conjectured on how the holder of an interim charging order might have acted upon receipt of the enforcement notice, no evidence was shown as to how the Council's enforcement against of this short section of fencing could have resulted in substantial prejudice to either the Appellant or the charge holder. In my view, quashing or upholding the enforcement notice in respect of the fencing would have no demonstrable effect on the value of the property at No. 20 Sandringham Road.
9. Whilst the enforcement notice was not served on Michael and Naomi Brodtman, it was not shown if or how they suffered any substantial prejudice to their interest in the property at No. 20 as alleged by Ms Worthington. Here, the breach of planning control was the erection of an unauthorised fence, the enforcement notice requirement was that it be removed. I consider the Council were right to say there was no statutory requirement to serve Michael and Naomi Brodtman with a copy of the notice under s.172(2) of the Act.
10. The appeal on ground (e) fails.

The appeal on ground (f)

11. An appeal on ground (f) is 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 which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. The assertion is that the steps, (the requirements of the notice), are excessive and that lesser steps would overcome the objections.
12. Most of Ms Worthington's ground (f) appeal went to the planning merits of retaining the fencing the enforcement notice seeks to have removed. I cannot consider a case to justify retaining the fencing in the absence of an appeal on ground (a), that is, that planning permission should be granted for the fencing.
13. Ms Worthington suggested an acceptable compromise might have been to allow a limited section of 6-foot fencing to remain between Nos. 20 and 22 Sandringham Road, to provide a degree of privacy and to limit the problems she had encountered with neighbours.
14. I have some sympathy with regard to a section of the fencing along the shared boundary of Nos. 20 and 22 Sandringham Road, said to be 6ft high, that some part could be retained. That is not because of any consideration of the planning merits

of the retention of that section of fencing, but that, in isolation, the erection of a fence along the boundary between Nos. 20 and 22 could have been development permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015, (the Order), if less than 2m high. But where any part of the contiguous fencing is not permitted by the Order, all the fencing is in breach of planning control. The section of fencing along the road fronting boundary is not permitted development where more than 1m high. I could have varied the notice to delete reference to the boundary fence between Nos. 20 and 22 as there is no sensible point in requiring it be removed only for it to be capable of being re-erected immediately afterwards under permitted development concessions. I consider, however, it would be better for the Council and Ms Worthington to attempt to come to an accord on this matter.

15. In their reasons for issuing the enforcement notice, the Council had alleged that the unauthorised fencing harmed the street scene and the consequent absence of visibility splays was a possible safety hazard. The removal of the fencing to the front boundary of No. 20 was required to address those problems. No lesser requirement would achieve that.
16. The appeal on ground (f) fails.

The appeal on ground (g)

17. The appeal on ground (g) claims that the period for compliance with the notice is inadequate. In this instance, Ms Worthington said her serious health problems made it difficult for her to make timely arrangements for the necessary work to the appeal fencing. I will allow Ms Worthington more time for that purpose. I increase the period for compliance with the enforcement notice to 2 months. Subject to that, the varied enforcement notice is upheld.

FORMAL DECISION

18. The enforcement notice is varied by the deletion of the words: "One (1) month" in line 3 of para. 6 on page 2 of the notice and the substitution therefor of the words "Two (2) months". Subject to that, the varied enforcement notice is upheld.

John Whalley

INSPECTOR