



Appeal Decisions

Site visit made on 6 May 2026

by **Mark Caine BSc (Hons) MTPL MRTPI LSRA**

an Inspector appointed by the Secretary of State

Decision date: 8 June 2026

Appeal A Ref: APP/V4250/C/25/3363330

Appeal B Ref: APP/V4250/C/25/3363331

Land at 182 Slag Lane, Lowton, Warrington WA3 2EZ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made by Mr Alexander Brown (Appeal A) and Mrs Barbara Brown (Appeal B) against an enforcement notice issued by Wigan Metropolitan Borough Council.
 - The notice was issued on 18 March 2025.
 - The breach of planning control as alleged in the notice is Without planning permission, the erection of a fence on the Land, as identified in blue on the attached plan, labelled EN/2.
 - The requirements of the notice are to: Remove the fence.
 - The period for compliance with the requirement is: 56 days from the date this notice comes into effect.
 - Appeals A and B are proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 (as amended).
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Formal Decision

1. It is directed that the enforcement notice is corrected by:
 - The deletion of the words "Remove the fence" and the substitution of the words "Remove the fence on the Land, as identified in blue on the attached plan, labelled EN/2." in section 5.
2. Subject to the correction, the appeals are dismissed, and the enforcement notice is upheld.

The Enforcement Notice

3. Section 176(1) of the Act states that, on appeal, the Secretary of State may (a) correct any defect, error or misdescription in the enforcement notice; or (b) vary the terms of the enforcement notice, if they are satisfied that the correction will not cause injustice to the appellant or the LPA.
4. To ensure that the requirements are described in the same terms as the allegation, and for the purposes of clarity, given the other fencing on the site, it is necessary to include the words "on the Land, as identified in blue on the attached plan, labelled EN/2" in section 5 of the notice. I am satisfied that I can make this correction without causing injustice to the appellants or the Council.

Procedural Matters

5. The appeals are made by separate recipients on the same ground against the same enforcement notice. I shall therefore deal with them together in a single decision letter.

6. Although the appeals have been made solely under the ground (f) heading, the appellants' written submission raises points in respect of the planning merits of the case. Whilst this would usually be considered under ground (a) this has lapsed due to the required fee not being paid within the specified period.
7. Moreover, even if the fee had been paid, s174(2A) of the Town and Country Planning Act 1990, prevents appellants from having multiple attempts at getting planning permission for the same development within a two-year period. In this case, a retrospective application to retain the unauthorised works has already been refused planning permission, in October 2024, less than two years before the enforcement notice was served.
8. As such, the appeals proceed on ground (f) only.

Appeals on ground (f)

9. The appeals on ground (f) are brought on the grounds that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control which may be constituted by those matters stated in the notice or, as the case may be, remedy any injury to amenity which has been caused by such breach.
10. When an appeal is made on ground (f), it is necessary to understand the purpose of the notice. Section 173(4) of the 1990 Act states that the purpose of an enforcement notice is to (a) remedy the breach of planning control, or (b) remedy any injury to amenity which has been caused by the breach. The 1990 Act sets out that the breach may be remedied by making the development comply with the terms of any planning permission granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place.
11. In this case, given that the requirements of the notice are to remove the fence, it follows that the purpose of the notice is to remedy the breach of planning control.
12. There is little before me to explain why the appellants consider the steps to be excessive or to detail any proposed lesser steps. As previously mentioned, the appellants cannot progress ground (a) appeals, that is to say that planning permission should be granted for the development. In the absence of ground (a) appeals, and a deemed planning application, I am unable to consider the merits of the development. These include other similar developments in the area, any highway safety risk, security benefits and conditions which may be deemed appropriate, including landscaping or others which are not before me.
13. It is the appellants understanding that the fence would be acceptable if it was set in 1 metre from the boundary with Canterbury Avenue. However, they have not explained why they consider this to be the case. They also argue that it would not have a less visually harmful effect than the development, rather than putting it forward as an alternative.
14. Therefore, as the notice does no more than seek remedy of the breach, it is not excessive. There are no lesser steps drawn to my attention or any obvious alternatives that would remedy the breach of planning control which is the purpose of the notice.
15. The appeals on ground (f) therefore fail.

Conclusion

16. For the reasons given above, I conclude that the appeals should not succeed.
I shall uphold the enforcement notice with a correction.

Mark Caine

INSPECTOR