



Appeal Decision

Site visit made on 3 June 2026

by **G Robbie BA(Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 June 2026

Appeal Ref: APP/T0355/C/24/3357794

26 Sawyers Crescent, Maidenhead SL6 3ND

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Ms Shahena Yasmin against an enforcement notice issued by Royal Borough of Windsor and Maidenhead.
- The notice was issued on 21 November 2024.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a boundary treatment, consisting of one electric metal vehicle entrance gate, one metal pedestrian gate, brick pillars and timber fencing with integral concrete posts.
- The requirements of the notice are:
 1. Demolish the timber fencing, concrete posts, brick pillars, pedestrian gate and vehicle gate, along the front north facing boundary and the timber fencing with integral concrete posts on the west facing boundary, as identified on the appended site plan with a blue line and within appendix EE1.
- The period for compliance with the requirement is:

Two calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeal is dismissed and the enforcement notice is upheld.

Formal Decision

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

Preliminary Matters

2. The appeal against the notice was made on the grounds described in the banner heading, above. In the appellant's appeal statement, reference has been made to the possible submission of a planning application for a revised scheme¹. Revisions to the means of enclosure as built have also been referred to. I have no evidence before me to indicate that either had been submitted to the Council, nor do I have them before me as part of the appeal. Thus, there are no drawings showing the proposal but a revised scheme is described in terms of the retention of the existing brick piers, concrete posts and gates at their current height, but with the insertion of fence panels of reduced height of 1 metre.
3. No appeal has been made on ground (a), the appellant stating explicitly in the appeal statement why that is so. In the absence of an appeal on ground (a) the planning merits of the matter enforced against or the revised scheme as described by the appellant, fall to be considered on an appeal on grounds (c), (f) and (g). Thus, matters such as examples of other fences, walls and hedges at nearby properties, the character and appearance of the surrounding residential area, the appellant's response to the previous appeal decision or the motivation for carrying out the works do not form part of my consideration of the appeal on the grounds as lodged.

¹ Paragraphs 4.01, 4.07 and 4.10

4. An appeal on ground (f) however requires consideration of whether the steps required by the notice 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 by any such breach. It follows that the starting point in an appeal on ground (f) is to determine the purposes of the notice and then to consider whether there is any obvious alternative or lesser step that would achieve the purposes of the notice with less cost and disruption, mindful of proportionality and that enforcement procedures should be 'remedial rather than punitive'². I consider these matters below in relation to the appeal on ground (f).

The appeal on ground (c)

5. An appeal on ground (c) is that those matters, if they have occurred, do not constitute a breach of planning control. This may be because what has been alleged does not constitute development, or it does amount to development but what is alleged is permitted by the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) as permitted development.
6. Article 3(1) of the GPDO provides that, subject to the provisions, limitations and restrictions of the relevant classes of development set out therein, planning permission shall be granted for those works as 'permitted development'. Of particular relevance in this instance, are the provisions of Part 2, Class A of Schedule 2 of the Order.
7. Class A states that the 'erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure shall be permitted development. This is, however, subject to the restrictions set out at paragraph A.1 which states that development is not permitted by Class A if, amongst other factors, the height of any gate, fence, wall or other means of enclosure exceeds 2 metres above ground level³, or the height of any gate, fence, wall or other means of enclosure would exceed 1 metre above ground level if erected or constructed adjacent to a highway used by vehicular traffic⁴.
8. The means of enclosure in this instance extends across the width of the appeal property's roadside frontage, and then rearwards at the western side of the appeal plot between nos. 26 and 24. It is comprised of roll-top timber fence panels with an integral 'trellis' element at the top of each panel fitted between brick pillars and concrete posts. A pedestrian gate and vehicle gate, both of a similar slatted metal construction, provide access to the appeal property, and a degree of visibility through the means of enclosure.
9. Across the site frontage, the enclosure is clearly and significantly in excess of 1 metre in height above ground level at all points where it is adjacent to the highway. So too, that portion of the enclosure identified in the notice as part of the blue line drawn on the plan appended to the notice⁵. Helpfully, the appellant has quantified the extent to which the means of enclosure exceeds the threshold height across the site frontage adjacent to the highway as set out in the GPDO as being 'only' 830mm higher than the 1000mm allowed as permitted development.

² *Tapecrown Ltd v FSS & the Vale of the White Horse DC* [2006] EWCA Civ 1744

³ Paragraph A.1(b)

⁴ Paragraph A.1(a)(ii)

⁵ Appended as Appendix EE1

10. In other words therefore, almost twice as high as that which would otherwise have benefited from permitted development provisions. Nor does the extent to which the gates offer a proportion of 'open surface area' affect whether or not the enclosure as constructed lies within, or exceeds, the provisions, limitations or restrictions set out within the GPDO.
11. The extent of the enclosure that the notice seeks to attack is shown at Appendix EE1 to the notice. This includes a length of the enclosure between the appeal property and no. 24. As this element extends rearwards along the side of the garden plot it would no longer be adjacent to the highway used by vehicular traffic. This, the appellant argues, renders this element as being permitted development.
12. It is, however, well established⁶ that if development is begun but any GPDO limitation is exceeded, the whole of the development would be unlawful, not just the element in excess of permitted development rights. Although the appellant's appeal statement makes reference to the western boundary fencing as being 'already installed' no further evidence has been presented to substantiate this claim. Further references to this element of the enclosure being permitted development appear to be based on it not exceeding the relevant GPDO limitations where not adjacent to a highway, rather than a suggestion that it had been built as separate parts.
13. The enclosure enforced against is contiguous in form and layout and 'of a piece' in its design and appearance across its length as shown at Appendix EE1 of the notice. On the basis of the evidence before therefore, the means of enclosure as constructed should be treated as a whole and as such, since it exceeds 1 metre in height and is adjacent to a highway used by vehicular traffic, it is not granted planning permission by the GPDO. What the notice seeks to attack is therefore a breach of planning control and the appeal on ground (c) must therefore fail.

The appeal on ground (f)

14. An appeal on ground (f) is made on the basis 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 or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
15. The appellant's statement describes proposed revisions that could be made to the means of enclosure. Those suggestions are described as retaining the existing brick piers, concrete posts and gates at their current height, but with the insertion of fence panels of a reduced height of 1 metre fixed between the retained piers and posts. No further details have been submitted to demonstrate that such a revised scheme has been put before the Council, nor do I have any before me as part of this appeal.
16. Section 173 of the Town and Country Planning Act 1990 (as amended) (the Act) states that there are two purposes which the requirements of an enforcement notice can seek to achieve. The first (s173(4)(a)) is to remedy the breach of planning control which has occurred. The second (s173(4)(b)) is to remedy any injury to amenity which has been caused by the breach.
17. The notice requires the removal of the means of enclosure in its entirety. Thus, the timber fencing, concrete posts, brick pillars, pedestrian gate and vehicle gate along

⁶ *Garland v MHLG* [1968] 20 P&CR 93

the front (north) facing boundary and the timber fencing and concrete posts on the stretch of the side (west) facing boundary included as part of the blue line on the notice, are all required to be removed. This is consistent with the purpose of remedying the breach of planning control in accordance with (s173(4)(a)) of the Act, the breach being comprised of the means of enclosure in its entirety. Any lesser step in the manner described by the appellant would not remedy the breach of planning control and thus would not achieve the purpose of the notice.

18. With regard to the removal of all associated materials from the land, it is not the removal per se that is claimed to be excessive. Rather, that the removal of the associated materials in connection with the 'side' element of the enclosure would be excessive given the appellant's position that that part of the enclosure would be permitted development and should be retained. For the reasons set out, I do not consider that to be the case and the removal of the associated materials from this element of the enclosure would not be excessive.
19. The appellant has not pleaded a case under ground (a) and no fee has been paid in that respect. For the reasons set out the planning merits of the alternative scheme, response to the matters assessed by the previous Inspector, the character and appearance of the surrounding area and examples of other means of enclosure do not fall to me to consider further as part of this appeal. The appeal on ground (f) therefore fails.

The appeal on ground (g)

20. An appeal on ground (g) is made on the basis that any period specified in the notice falls short of what should reasonably be allowed. In this instance, the notice allows for a period of two calendar months for the removal of the constituent parts of the means of enclosure.
21. The extent of the means of enclosure subject to the notice's requirements is not especially lengthy. The fence panels that are placed between the brick piers and concrete posts appear to be lightweight in their construction and should not present any particular difficulties in their removal. So too, the pedestrian and vehicle gates, albeit that I am mindful that the vehicle gate is larger than the fence panels and likely to be a two-person job. Its removal should not, however, present any particular or insurmountable obstacles that would result in difficulty complying with the notice's time period.
22. The concrete posts and brick piers are more substantial than the fence panels, but they are not great in number and it has not been explained how even 'careful dismantling' could not be carried out within the 2-month compliance period. Given the timing of the appeal and my decision, adverse winter weather is now unlikely to be a factor in the ability of the appellant to carry out the required works.
23. Conversely, a compliance period coinciding with the spring / summer would, the appellant also argues, result in difficulty in securing contractors to carry out the specified works. However, I am not persuaded that the required works are sufficiently extensive, complex or onerous that, if contractors were even required, they would need to be any more specialised than a local labourer or handyperson. A period of two months is not therefore excessive or unreasonable and the period specified by the notice does not fall short of what should reasonably be allowed. The appeal on ground (g) therefore fails.

Conclusion

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

G Robbie

INSPECTOR