



Appeal Decision

Site visit made on 27 July 2026

by **R Bartlett PGDip URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 August 2026

Appeal Ref: APP/T5150/C/25/3362890

29 Kendal Road, London, NW10 1JG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Kamal Alazawi against an enforcement notice issued by the Council of the London Borough of Brent.
- The notice was issued on 11 February 2025.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a front and side boundary fencing and gates to the front garden of the premises.
- The requirements of the notice are to:
 - Step 1 – Demolish the front and side boundary fence and gates to the front of the premises.
 - Step 2 – Remove all items, materials and debris from the premises created as a result of compliance with Step 1 and restore the frontage of the premises back to the previous condition before the unauthorised development took place as shown on the attached Google Image 2018.
- The period for compliance with the requirements is: 3 months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(c) and (f) of the Town and Country Planning Act 1990 (as amended). Since the prescribed fees have not been paid within the specified period, any appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld as varied in the terms set out below in the Formal Decision.

Procedural Matters

1. The appeal form included information relating to ground (a), but any appeal made on this ground has lapsed due to the required fee not being paid within the specified period. The appeal has therefore proceeded on grounds (c) and (f) only as confirmed in the start letter.
2. Whilst I acknowledge the representations made both in support of and against the development, in the absence of an appeal on ground (a) I am unable to consider any planning merits.
3. It has been brought to my attention that the fencing and gates along the front boundary of the garden, immediately adjacent to the public footway, have been altered since the notice was issued. For the avoidance of doubt, I have only considered the breach of planning control that is alleged in the notice, as shown in the photographs dated 18th July 2024 at Appendix 3 of the Council's appeal statement.

The appeal on ground (c)

4. An appeal on ground (c) is a legal ground, and to succeed, the burden of proof is on the appellant to demonstrate that, on the balance of probability, the matters alleged in the notice do not constitute a breach of planning control.

5. Class A, Part 2, Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) provides that the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure is permitted development, subject to the limitations at Class A.1. One of the limitations at Class A.1 is that development is not permitted by Class A if the height of the gate, fence, wall or other means of enclosure erected or constructed adjacent to a highway would exceed one metre above ground level.
6. Although the GPDO does not define the term 'adjacent to the highway' The Oxford English Dictionary defines 'adjacent' as being near or next to something else. As such the whole of the front boundary and at least parts of the two side boundaries are in my view adjacent to the highway for the purposes of the GPDO.
7. The appellant states that the front garden is surrounded by and covered with, amongst other things, visually pleasant and scented hedges, bushes, trees, flowers, climbing plants and grape vines. This planting is not development, is not referred to in the notice, and does not require planning permission. The low brick walls along the two side boundaries are also not referred to in the notice, appear on historic photographic images supplied by the Council, and are not required to be removed.
8. At the time the notice was issued, photographs show that the front boundary, adjacent to the public footway, comprised low level, timber picket style gates, with higher level timber posts at either side of them joined by a timber crossbar above them. These gates appear to have been less than one metre high, in which case they would not have required planning permission subject to the adjoining high-level posts and crossbar surrounding them being removed.
9. However, the remaining front and side boundaries were, at the time the notice was issued, and continue to be, also enclosed by trellis style fence panels and a trellis panel pedestrian gate, exceeding one metre in height.
10. Whilst I acknowledge that these structures comprise light timber materials that allow light and views through, as opposed to being more oppressive solid structures, they are nevertheless still gates, fencing or other means of enclosure, for the purposes of the GPDO. The fencing, gates and associated fixed structures, due to exceeding one metre in height adjacent to the highway, are not permitted by the GPDO and require express planning permission.
11. For the above reasons, I conclude, that on the balance of probability, the matters stated in the notice do constitute a breach of planning control. Accordingly, the appeal on ground (c) fails.

The appeal on ground (f)

12. An appeal on ground (f) is made on the basis that the requirements of the notice exceed what is necessary to either (a) remedy the breach of planning control or (b) remedy any injury to amenity which has been caused by the breach. In this case, the enforcement notice sets out at schedule 4, what is required to remedy the breach of planning control.

13. The appellant states that the requirements to remove all fencing and gates and to restore the site to that shown in an image dated 2018, in which there is no planting or front boundary treatment, is excessive and unnecessary.
14. In this case the breach of planning control has occurred due to the development exceeding one metre in height adjacent to the highway. Although no lesser steps to overcome the Council's concerns have been suggested, if there is an obvious alternative that would overcome the breach, at lesser cost and disruption than total demolition, then I must consider it.
15. An obvious alternative solution, given that following compliance with the requirements of the notice new boundary treatment not exceeding one metre in height adjacent to the highway or two metres in height elsewhere, could be erected without the need for planning permission, would be to require the fencing, posts and gates adjacent to the highway, to be reduced in height to a maximum of one metre above ground level, in line with the provisions of the GPDO.
16. Whilst I acknowledge that one-metre-high fencing and gates may not provide the same sense of security the appellant was seeking to achieve, the reduction in height of the existing means of enclosure offers an alternative to its total removal or replacement with new boundary treatment.
17. I consider that the requirements of the notice for complete removal of the structures and the return of the front garden to its condition as shown on the 2018 Google image, is disproportionate, given that the planting is not development.
18. I therefore conclude that the appeal on ground (f) succeeds in part, and I shall vary the notice accordingly.

Conclusion

19. For the reasons given above, I conclude that the appeal succeeds only in part. I shall therefore uphold the notice with a variation to the requirements.

Formal Decision

20. It is directed that the enforcement notice is varied by the deletion of the attached 2018 Google image and the deletion of steps 1 and 2 from Schedule 4 of the notice, and their substitution with:
 - Step 1 Either demolish the front and side boundary fencing and gates to the front of the premises; or reduce the height of all boundary fencing and gates adjacent to the highway to no more than one metre in height above ground level.
 - Step 2 Remove all waste from the site resulting from compliance with Step 1.
21. Subject to this variation, the appeal is dismissed and the enforcement notice is upheld.

R Bartlett

INSPECTOR