



Appeal Decision

by S A Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2026

Appeal Ref: APP/Q4625/C/25/3358423

68 Faircroft Road, Castle Bromwich B36 9TP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Mohammed Ashraf against an enforcement notice issued by Solihull Metropolitan Borough Council.
 - The notice was issued on 25 November 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a wall, gate and fence around 1.8m high, on the land adjacent to a highway denoted in green on the enclosed plan.
 - The requirements of the notice are to:
 - (a) demolish the entire unauthorised wall, gate and fence and reinstate the previous property boundary on the land; or
 - (b) reduce the wall, gate and fence to no more than 1m in height, and
 - (c) remove all materials created by the taking of step (a) and (b) above from the land.
 - The period for compliance with the requirements is 3 (three) months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 (as amended). Since the fee has not been paid, an appeal on ground (a) and an application for planning permission deemed to have been made under section 177(5) of the Act has lapsed.
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Decision

1. It is directed that the Notice be varied in Part 5 by deleting (a) and substituting it with “(a) demolish the entire unauthorised wall, gate and fence and restore the land to its previous condition; or”.
2. Subject to the variation, the appeal is dismissed and the enforcement notice is upheld.

The Notice

3. Step (a) in Part 5 of the Notice requires reinstatement of the former property boundary following demolition. Given the limitations imposed by section 173(4)(a) and (b) of the Act, an enforcement notice may only require steps necessary to remedy the breach and cannot compel works that go beyond that objective. Accordingly, rather than requiring reinstatement of a specific boundary, the Notice should require the land to be restored to its condition immediately before the breach occurred.

Preliminary Matters

4. The nature of the development, and the limited remit of a ground (f) appeal means that issues of planning merit are not matters for me to consider. Accordingly, a site visit was not deemed necessary. Both parties were notified of this approach and no comments were received. I therefore consider that neither party has been prejudiced by my proceeding in this manner.

Ground (f)

5. Under section 173(4) of the 1990 Act, the purpose of an enforcement notice is either: (a) to remedy the breach of planning control; or (b) to remedy any injury to amenity.
6. The notice makes clear that its primary purpose is to remedy the breach of planning control, namely the removal of the unauthorised boundary treatment or its reduction in height to 1m which would be the height of the development that might otherwise have been permitted by virtue of Article 3(1) of The Town and Country Planning (General Permitted Development) (England) Order 2015 under Class A of Part 2 had the unauthorised works not taken place.
7. In a ground (f) appeal, the burden lies firmly with the appellant to identify any lesser steps that would achieve the stated purpose of the notice. The appellant argues that the primary purpose of these structures is to enhance the security of their property in the wake of a perceived increase in crime, including frequent break-ins and car thefts. Reducing the height of the wall, gate, and fence is considered to significantly undermine the security of their property. A lower structure is deemed to provide easier access for intruders and would fail to act as a sufficient deterrent. The current height is said to be essential for ensuring the safety of their home and vehicles.
8. While I acknowledge the appellant's desire to protect their home and possessions, as there is no appeal on ground (a), it is not within my remit to assess the planning merits of the development. The appellant has the option to remove the unauthorised development entirely or reduce its height to no more than 1m. There are no lesser requirements presented or obvious alternatives that would remedy the breach of planning control.
9. Furthermore, section 173(11) of the Act prevents ground (f) being used as a mechanism to retain unlawful development by reducing the remedial steps required. To allow retention of the boundary treatment at its present height through the imposition of lesser steps would effectively grant permission by default and would undermine the statutory enforcement process.
10. The requirements of the notice do no more than oblige the appellant to undo what has been done. They are the minimum necessary to comply with the notice and are proportionate to achieve its purpose. Since no lesser steps have been identified which would achieve that purpose, the appeal on ground (f) fails.

S A Hanson

INSPECTOR