

## Appeal Decision

Site visit made on 13 August 2026

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 20<sup>th</sup> August 2026

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**Appeal ref: APP/P4605/C/25/3372003**

**61 Hagley Road West, Birmingham B17 8AE**

- The appeal is made by Yasser Gulraiz 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 Birmingham City Council.
- The enforcement notice was issued on 31 July 2025, Council ref: 2024/0184/ENF.
- The breach of planning control alleged in the notice is: Without planning permission, the unauthorised installation of front gates and erection of boundary walls in the approximate position marked in green on the plan attached to the notice.
- The requirements of the notice are:
  - i) Demolish the unauthorised front gates and boundary walls in their entirety; and
  - ii) Remove all demolished materials from the Premises associated with compliance with requirement i).
- The period for compliance with the above requirements is three months.
- The appeal was made on the grounds set out in section 174(2) (a), (c), (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.

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### Appeal property and appeal development

1. Planning permission 2022/08234/PA for the Erection of two storey side extensions to both sides of the dwelling to include bay window projections, two storey and single storey rear extensions with Juliette balconies, roof lights to side, front and rear, detached outbuilding to rear, front boundary wall/railings and installation of a new additional footway crossing at No. 61 Hagley Road West was conditionally approved on 11 April 2023.
2. The planning permission has been implemented and appeared complete. But the Appellant Yasser Gulraiz has constructed the front wall and its gates to his large detached home at No. 61 to a different layout to the 2022/08234/PA permission.
3. The road facing fronting wall to No. 61 was described by Mr Gulraiz as a modern boundary wall finished in a light-coloured stone to match the dwelling. Two 1.83m high automated vehicular gates and a high pedestrian door are set in this wall. Other walling enforced against includes the new boundary walls to the shared boundaries forward of the houses' façades between No. 61 and No. 59 Hagley Road West and to No. 63 on the other side.
4. A retrospective application to amend the design and scale of the front boundary treatment, ref: 2024/05461/PA, as built, was refused planning permission 29 November 2024.

### The appeal made on ground (c)

5. As the ground (c) appeal asserts that the matters alleged in the notice do not constitute a breach of planning control, it is considered first.
6. Mr Gulraiz maintained that the construction of the front boundary walls and gates to the property at No. 61 was development permitted under Article 3 Schedule 2 Part 2 Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, (the Order) - *the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure*.
7. However, development is not permitted by Class A, (A.1), if — (a) the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed — (ii) in any other case, (other than (i) for a school), 1 metre above ground level.
8. The road facing frontage wall at No. 61 is the foremost consideration. The gates and the frontage wall were accepted to be approximately 1.8 high. I agree with the Council that the frontage section of the appeal boundary wall is close enough to Hagley Road West to encounter the limitation of “adjacent to a highway used by vehicular traffic” at A.1(a)(ii) in Schedule 2 Part 2 Class A of the Order. The limitation is that such a gate, fence, wall or means of enclosure is not permitted by the Order if it is more than 1m above ground level.
9. The Council said the term “adjacent” has been consistently interpreted by Planning Inspectors and the Courts to mean “near or close to”, not “abutting”. That is so. The Order does not set a distance figure on what may reasonably be seen to be adjacent to the highway. It does however, show that this section of the Order is dealing with a “means of enclosure”. In my view, that is clearly the purpose of the frontage wall and the applicable lengths of the side boundary walls, to provide a means of enclosure to the house and front yard at No. 61.
10. I find no provision in Class A of the Order that permits a means of enclosure more than 1m high even if set in from the edge of the highway by 2m or so. I conclude that the walling and gates to the frontage of No. 61, including the short lengths of high flanking walling forward of the frontage wall are adjacent to the highway and that they were not permitted by the Order.
11. The sections of the new boundary walling along the shared boundaries with Nos. 59 and 63 Hagley Road West that extend from the frontage wall to the house façade are a little 'less than 2m high. Mr Gulraiz suggested the neighbouring side walls should not have been included in the alleged breach of planning control. Had those sections of walling been built separately from the road facing frontage section of the walls enforced against, I agree they would have been permitted by Schedule 2 Part 2 Class A of the Order. But as they were part of what appears to have been one scheme or project, where any part of the scheme does not comply, none of the development is granted planning permission by the Order. The case of *Garland v MHLG* [1968] 20 P&CR 93 is authority for that position; also *Fayrewood Fish Farms v SSE & Hampshire CC* [1984] JPL 267, where it was determined that if the development breaches any Order conditions or limitations, permitted development rights cannot apply.
12. Order concessions are not concerned with matters of planning merit or whether any measured failure to comply with a condition or limitation is large or small. An operational development scheme either precisely complies with the limitations of the Order or it does not. Planning permission was required for the construction of the gates and walling as set out in the enforcement notice.
13. The appeal on ground (c) fails.

**The appeal made on ground (a)**

14. The appeal dwelling No. 61 Hagley Road West is on the south-eastern side of the road opposite the pleasant open land of Lightwoods Park. The close neighbour houses to No. 61 are also large fine detached houses, extending particularly to the north-east to Lordswood Road.
15. Policy PG3 to the Birmingham Development Plan sets out the Council's design expectations for place-making, requiring all new development to demonstrate high-quality design that creates a positive sense of place and local distinctiveness. Policy PG3 requires development to respond to its site context, reinforce local character through appropriate use of materials and form, and create safe and attractive environments.
16. The Birmingham Design Guide SPD (2022) states in relation to boundary treatments that the design, location and height of boundary treatments must align with and complement the character of the surrounding area and not lead to the fortification of properties. It says high boundary treatments at property frontages, (beyond 1.2m), will not be supported.
17. I consider that boundaries seen from the public realm should be of a high-quality design and fit in with the street scene and the character of the wider area.
18. Mr Gulraiz said his house had recently been extended and refurbished. It was a substantial, architecturally coherent modern dwelling of significant scale, occupying a wide and prominent plot. The design was said to be deliberately modern, with a stone clad and grey rendered finish, dark-framed windows, with bold gabled forms. He said its distinctive character fitted in well with the varied streetscape of Hagley Road West, the improvements to his home having been accepted by the Council having granted planning permission 2022/08234/PA. I do not dissent from that view. Mr Gulraiz asserted that the scale of the frontage boundary treatment was proportionate to the extended house and its wide plot. The boundary walls had been constructed of complementing materials, ensuring a cohesive appearance. Mr Gulraiz said the appeal boundaries strengthened the distinctive character of his home. They were consistent with PG3 aspirations.
19. However, I agree with the Council's assessment that the design and scale of the unauthorised installation of front gates and the front boundary walls is out of keeping with the character of adjoining and nearby houses front boundaries and their more open frontages, having produced an unacceptable walled-in effect, harmful to the street scene. The materials used for the walling complement the house walls, being of similar finish and of good quality. But I consider the front walling and gates to be excessively high for a solid wall, producing a somewhat forbidding effect at the fronting footway, exacerbated by the rather uninviting appearance of the high black painted solid gates in the wall. The closed in effect is aggravated by the somewhat dominating high walling forward of each end of the front wall. Lighter painted gates would have helped, especially if slatted panels had been used. However, the overall impression remains of an undue emphasis on security that is at odds with the pleasant residential nature of the surroundings and the open parkland opposite.
20. The Council acknowledged that the appeal property had planning permission, (ref: 2022/08234/PA), for the erection of a 1.8m high boundary to have been constructed as a low wall with pillars and railings with metal gates – as shown on approved drawing No. P110 Rev. D at ② Proposed 3D Front. But what has been built is a solid boundary and gates, rather than as proposed using vertical bar railing, although to perhaps the same height as now built, but that would have offered a more open aspect to the fine house and front service area.

21. I was asked to look at a number of front walls and boundaries to houses nearby in Hagley Road West, Hamilton Avenue and Lordswood Road, suggesting the Council had permitted or, by not taking enforcement action, accepted residential front boundaries considerably taller than the 1m Order limit. Whatever the history of such boundaries, I saw that most having been built with low walls surmounted by vertical metal railings, were in distinct contrast to the solid walling that is the most unacceptable element of the frontage to the appeal property, No 61.
22. I conclude that the front wall and gates at No. 61 have been unacceptably built contrary to Policy PG3 of the Birmingham Development Plan 2031 (Adopted 2017), Birmingham Design Guide SPD 2022, and Policy DM2 of the Development Management in Birmingham DPD 2021 and the National Planning Policy Framework 2024.
23. The appeal on ground (a) fails. Planning permission is not granted on the application deemed have been made.

**The appeal made on ground (f)**

24. An appeal on ground (f) asserts that the steps required by the enforcement 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.
25. Mr Gulraiz said that the steps required by the enforcement notice to demolish all boundary walls and front gates exceeded what was necessary to remedy any breach of planning control. Planning permission 2022/08234/PA was for the erection of 2m front boundary walls with railings. That was not recognised by the enforcement notice. He said that should enforcement action ensue; the notice's requirement should be that the existing frontage walls and gates be replaced in accordance with the consented boundary treatment.
26. The enforcement notice's requirement to demolish all boundary walls and front gates outlined in green on the plan attached to the notice would achieve the objective of remedying the breach of planning control. Firstly however, I consider that the wording of notice requirement (i) is imprecise. It is not clear whether the words "boundary walls" in requirement (i) is to include the neighbour side boundary walls, or just the frontage boundary walls. The side walls, shown in green on the notice plan along the boundaries with neighbouring properties at Nos. 59 and 63, if demolished, could be immediately replaced under Order permitted development consents. I will exclude the requirement to demolish those 2 sections of wall. That would have the effect of granting a planning permission by virtue of s.73A of the Act to retain those shared boundary wall provided the other requirements of the enforcement notice are complied with - s.173(11) of the Act.
27. Planning permission 2022/08234/PA drawing No. P110 Rev. D at ② Proposed 3D Front shows the approved front boundary layout. That could replace the front boundary wall should Mr Gulraiz so decide. I add that as an alternative requirement, that the present front boundary be reconstructed as approved by that permission.
28. I also add an alternative requirement that the notice front wall and gates be lowered to a height of no more than 1m above adjoining ground levels. That would not appear to be a practicable or desirable solution, but it would achieve lawfulness.
29. The appeal on ground (f) succeeds to the extent set out above.

**The appeal made on ground (g)**

30. The appeal on ground (g) says the period for compliance with the requirements of the notice is insufficient.
31. Mr Gulraiz considered the 3 months compliance period for demolition of the front gates and boundary walls insufficient. He said some 12 months would be needed to accomplish necessary processes and site work. In my view, a 12 month compliance period would be akin to an undesirable temporary planning permission. I consider that a period of compliance of 6 months would allow sufficient time for suitable changes to be made to the front gates and front boundary walls.
32. The appeal on ground (g) succeeds to that extent.

**Conclusion**

33. For the reasons given above, I uphold the varied enforcement notice.

**FORMAL DECISION**

34. It is directed that the enforcement notice is varied by the deletion of line 5.1 i) on the first page of the notice and the substitution therefor of new line 5.1 i) "Demolish the unauthorised front gates and the front boundary wall in their entirety; OR - lower the height of the unauthorised front gates and the front boundary wall to a height of no more than 1m above adjacent ground levels."
35. The enforcement notice is also varied by the deletion of the words "3 month" in line 2 of para. 6. on page 1 of the notice and the substitution therefor of the words: "6 months.". Subject to those changes, the varied enforcement notice is upheld.

*John Whalley*

INSPECTOR