



Appeal Decision

Site visit made on 7 September 2026

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th September 2026

Appeal Ref: APP/D1780/C/25/3371847

171 Peartree Avenue, Southampton SO19 7RA

- The appeal is made under section 174 of the Town and Country Planning Act 1990, as amended (the Act).
 - The appeal is made by Miss Rabab Zulfukar against an enforcement notice issued by Southampton City Council.
 - The notice was issued on 24 July 2025.
 - The breach of planning control as alleged in the notice is *'Without planning permission, the erection of fencing and gates on the Land exceeding 1 metre in height fronting Peartree Avenue (together the "Unauthorised Fencing")'*.
 - The requirements of the notice are to:
 - (i) Either
 - (a) Remove the Unauthorised Fencing; or
 - (b) Reduce the height of the Unauthorised Fencing to a maximum height of one metre above ground level.
 - (ii) Remove all resulting materials from the Land arising from compliance with requirement (i).
 - The period for compliance with the requirements is: one month.
 - The appeal proceeds on the grounds set out in section 174(2)(a) and (f) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is also refused on the application deemed to have been made under section 177(5) of the Act.

Ground (a)

Background and Main Issues

2. The deemed application for planning permission is for the matters specified in the breach of planning control in the enforcement notice, as set out in the 4th bullet point in the banner header above.
3. The main parties also describe the structure at No.171 Peartree Avenue pursued by the notice as a front-boundary fenced wall. About half of it is a rendered wall with pillars supporting timber infill fencing, which extends further up and across the pillars in a band. Next to this is a pair of inward opening vehicle and pedestrian access gates in similar fencing. I have also been referred to fences, walls, pillars and gates at other residential properties in this road. I therefore take the structure at No.171 to mean the 'Unauthorised Fencing' and the main issues are its effect on:
 - the character and appearance of the area; and
 - highway safety.

Character and appearance

4. No.171 is a detached house, one of a number of mostly houses that line this side of the road in both directions, facing some wooded and open common land. At the front, along the back edge of the pavement, these other plots are contained by a variety of typical hard and soft domestic fences, walls (some including pillars) and hedges or shrubs, with some vehicle or pedestrian access gates (though many drives or parking spaces are just gaps). Common to these man-made boundary features is a broadly uniform low vertical height, with a generally recessive visual presence close to passing pedestrians on the pavement or road users. This also reveals the mainly open front gardens which give a sense of spaciousness along this road corridor and relief from the imposing mostly large dwellings set back a short distance in relatively shallow front gardens. This sequence and pattern of front gardens is a locally distinctive streetscene.
5. There is no dispute that a Google Streetview image shows that although a hard edge, the front boundary at No.171 included a low dwarf brick wall, with no evident pillars and a low timber vertical close boarded feather edge fence running across it. There was a (soft) gap with no gates at the vehicle and pedestrian access, including drive and parking space. As such, it was compatible in the streetscene.
6. While the low rendered dwarf wall is in-keeping, the four rendered pillars punctuate the front boundary and each is significantly taller than the dwarf wall, including in relation to heights of walls and pillars either side of No.171 and elsewhere along this stretch of the road. Although constructed somewhat unusually (for a front garden boundary) as horizontal tongue and groove fencing, timber is an acceptable material in this location. However, the infill part, between the pillars, especially the excessively tall band above and the similar height of the gates, is significantly higher than fences along this stretch of the road. As well as in scale, the fencing, including gates, is substantial in area so in overall massing.
7. Albeit localised and not in a conservation area, the abrupt overbearing and dominant presence of the Unauthorised Fencing creates excessive hard built form and front garden enclosure, including that it hides the ground floor of the house. This stark, discordant structure is manifestly at odds with the prevailing arrangement of front gardens in this road so undermines and erodes the integrity of an otherwise generally cohesive, open, low-key streetscene. It is prominent and conspicuous so jars in public views and diminishes how this part of Peartree Avenue is experienced by those who live along it or use it.
8. Consequently the Unauthorised Fencing has an unacceptable adverse effect on the character and appearance of the area, contrary to policies SDP1(i), SDP9 and SDP12 of the City of Southampton Local Plan, March 2015 (LP) and policy CS13 of the Core Strategy, March 2015 (CS). These policies include that hard landscape treatments (such as garden boundaries) should reflect and respond positively to integrate with the locality and surroundings having regard to character and local distinctiveness and be high quality design in terms of scale, massing, visual impact, use of materials and impact on local amenity and citizens of the city.

Highway safety

9. Albeit a snapshot, I saw that this broadly straight section of Peartree Avenue was a reasonably busy road with notable sustained volume and frequency of traffic passing No.171. While pedestrians on the pavement were few, there is evidence of

a nearby children's nursery and a primary school. It is therefore likely that pedestrian movements past No.171 will be more intense at other times of the day, including during rush hour periods.

10. The excessive height of the Unauthorised Fencing and its solid construction means that even when, as I saw, the gates are open, one forms a solid barrier along a side boundary of the front garden. A vehicle leaving No.171 will be out of sight to passing pedestrians and road users (including cyclists) in both directions until it suddenly juts out onto the pavement or into the carriageway.
11. Nor will passing pedestrians or road users be visible to the driver for the same reasons. Given there is little evidence the front garden is a turning space, the forward-parked vehicle I saw would need to reverse onto the pavement and into the carriageway, giving the driver little or no warning of approaching pedestrians or road users until most of it had emerged beyond the Unauthorised Fencing.
12. The lack of forward visibility or splay also applies to vehicles leaving the adjoining drive at No.169 whereas the drive at No.173 is further away.
13. Consequently, the Unauthorised Fencing has an unacceptable detrimental effect on highway safety, contrary to LP policies SDP1(i) and SDP9 and CS policy CS13. These policies include that development should not unacceptably affect the health and safety of citizens of the city, respect its surroundings in terms of impact on surrounding land uses and promote safe and functional streets.

Other Considerations

14. The appellant seeks planning permission for the Unauthorised Fencing as-built. I am not, therefore, able to consider a split decision in this case for otherwise potentially discrete, severable parts of this structure. Nor is there a comparable fall-back position under permitted development rights to erect or construct a gate, fence, wall or other means of enclosure in this position adjacent to a highway¹.
15. Planning conditions could not make this development acceptable given the fundamental objections set out in the main issues above. The '*approved plans*' condition suggested by the Council has no apparent relevance considering that there are no plans before me, other than a red line defining the Land in the enforcement notice plan. I have also considered a condition to make a planning permission temporary and personal to the appellant while they lived at No.171. However, this would not alleviate the harm the Unauthorised Fence causes, which could then remain in situ for a prolonged, indeterminate period of time.
16. The appellant lives at No.171 with her family, including two young children. She has a fear and actual cause for personal safety, welfare and security concerns because of past incidents of crime, intrusion and harassment reported to the Police. She also considers that the Unauthorised Fencing provides a means and deterrent to counter these circumstances and alleviate anxiety for all household members in a way that would not be achieved by the requirements of the notice.
17. I accept that the appeal outcome could interfere with private rights to family life, home and possessions². I have also had due regard to the age and potentially race

¹ Article 3(1), Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GPDO).

² Article 8 of the Human Rights Act 1998 (as amended), Article 1 of the First Protocol, United Nations Convention on the Rights of the Child and European Convention on Human Rights.

protected characteristics in this case for the purpose of the Public Sector Equality Duty, including to eliminate discrimination and advance equal opportunity³.

18. However, there is little evidence to objectively substantiate that the Unauthorised Fencing is the only effective means of security or protection in these regards, including to remedy future potential vulnerability. Nor that the best interests of any child has been significantly adversely impacted. Furthermore, qualified rights, such as in this case, can be infringed by a decision under planning legislation where it is justified to safeguard the wider public interest.
19. Consequently, while I am sympathetic to the appellant's situation, these personal circumstances have limited weight in support of the appeal. I am also satisfied that upholding the notice would be a proportionate outcome in this case.

Planning Balance and Conclusion

20. I consider that the appreciable harm to the character and appearance of the area and to highway safety each have significant weight against the appeal. There are, therefore, no other considerations to indicate that ground (a) should be determined otherwise than in accordance with the development plan taken as a whole⁴. Consequently, for the reasons given above, the Unauthorised Fencing is unacceptable and planning permission should not be granted for it.
21. Accordingly, ground (a) fails.

Ground (f)

22. For ground (f) to succeed, the appellant must demonstrate that the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control.
23. The reasons for issuing the notice refer to some amenity considerations but these explain why the Council decided it was expedient to take enforcement action. Taken with the requirements of the notice, it is clear that the purpose of the notice is to remedy the breach of planning control comprising operational development (i.e. to erect the Unauthorised Fence) under section 171A(1) of the Act.
24. Sections 173(3), (4)(a) and (5)(a) of the Act provide that the steps required to be taken by a notice can include by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land⁵; or restoring land to its condition before the breach took place by the removal of any building⁶ or works. The requirements would achieve either outcome and the Council does not seek to under-enforce.
25. I acknowledge that planning enforcement should be remedial, not punitive. But the appellant's case on ground (f) is essentially that made in ground (a) and does not agree to '*bring the fence down*' in height, i.e. at all, let alone to 1m above ground level or remove it. While either of the former might result in less cost and disruption to the appellant, no other '*less drastic reduction*' to '*address the Council's concerns while maintaining a reasonable degree of security for the property*' has been explained and there is no specific scheme before me in this regard. No other

³ Equality Act 2010 (as amended).

⁴ Section 38(6) of the Planning and Compulsory Purchase Act 2004, as amended.

⁵ In this case for gates, fences or walls in Schedule 2, Part 2, Class A of the GPDO.

⁶ 'Building' includes any structure or erection in section 336 of the Act.

lesser step or obvious alternative was advanced, though the appellant could pursue a planning application as a separate matter. In ground (f) there is no scope to consider whether requirements are excessive in terms of their impacts on an individual but I have had regard to this in ground (a).

26. In these circumstances, the steps required by the notice to be taken are consistent with remedying the breach of planning control so are necessary, proportionate and not excessive.

27. For these reasons ground (f) fails.

Overall Conclusion

28. Grounds (a) and (f) both fail, so the appeal does not succeed.

Robin Buchanan

INSPECTOR