



Appeal Decisions

Site visit made on 18 August 2026

by **S A Hanson BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 September 2026

Appeal A Ref: APP/Q4625/C/25/3371254

Appeal B Ref: APP/Q4625/C/25/3371255

95 Prospect Lane, Solihull B91 1HS

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- Appeal A is made by Mrs Danielle Collinson and Appeal B is made by Mr Ian Collinson against an enforcement notice issued by Solihull Metropolitan Borough Council.
- The notice was issued on 17 July 2025.
- The breach of planning control as alleged in the notice is: Without planning permission, a continuous boundary structure comprising of wall and fencing has been erected along the side and rear boundary of the Land. The section of wall and fencing adjacent to the highway, as identified in green on the enclosed plan, measures approximately 2.9 metres in height (when measured from the adjacent public footpath). A further section of the same structure, identified in blue on the enclosed plan, is located along the rear boundary and includes attached fencing, with parts reaching approximately 2.2 metres in height.
- The requirements of the notice are to:
 - (a) Demolish the entire unauthorised wall and fence and reinstate the previous boundary treatment on the Land; or,
 - (b) remove or reduce the section of the wall and fencing denoted in green on the enclosed plan to no more than 1 metre in height, as measured from the adjacent public footpath; and
 - (c) Remove or reduce the section of the wall and fencing denoted in blue on the enclosed plan to no more than 2 metres in height, as measured from the external face of the wall; or
 - (d) alter the wall and fence so that it fully accords with the approved plans under PL/2024/01497/MINFHO; and
 - (e) remove all materials from the Land created by complying with step (a), (b), (c) and (d).
- The period for compliance with the requirements is: 3 (three) months.
- Appeal A is proceeding on the grounds set out in section 174(2)(a) and (b) of the Town and Country Planning Act 1990 (as amended). 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.
- Appeal B is proceeding on the grounds set out in section 174(2)(b) of the Town and Country Planning Act 1990 (as amended).

Decisions

Appeal A

1. It is directed that for clarity the Notice be corrected by deleting the alleged breach of planning control in Part 3 and its substitution with 'Without planning permission, the erection of a wall and fence along the side and rear boundary of the Land.'

And

2. It is directed that the Notice be varied by deleting step (a) in Part 5 and substituting it with "(a) demolish the entire unauthorised wall and fence and restore the land to its previous condition;"

3. Subject to the correction and variation, Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the erection of a wall and fence along the side and rear boundary of the Land at 95 Prospect Lane, Solihull B91 1HS as shown on the plan attached to the notice.

Appeal B

4. The appeal is dismissed.

The Notice

5. The allegation describes in unnecessary detail the breach of planning control. For the purposes of clarity and precision, the allegation shall be corrected accordingly. It is open for me to correct the notice in accordance with my powers under section 176(1)(a) of the 1990 Act and I am satisfied that no injustice will arise to either of the main parties.
6. 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) of the 1990 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

7. The Government published a revision of the National Planning Policy Framework (the Framework) in August 2026. While I have had regard to the revised national policy as a material consideration, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.

Appeals A and B - Ground (b)

8. An appeal on Ground (b) is concerned solely with whether the matters alleged in the enforcement notice have occurred as a matter of fact. The burden of proof is on the appellant to demonstrate, on the balance of probabilities, that the matters stated in the notice have not in fact occurred.
9. It seems to me that although there is permission for a new boundary treatment at the appeal property, what has been constructed does not accord with the approved plans for application ref. PL/2024/01497/MINFHO. Furthermore, while there may well have been a boundary treatment consisting of fencing and brick with planting, this was substantially demolished and the new boundary erected in its place. Therefore, new development has taken place and because that development exceeds 1m in height where it is adjacent to a highway, and 2m elsewhere, express planning permission would be required. As there is no planning permission in place for what has been built, the matters alleged in the notice as constituting a breach of planning control have occurred.

10. Therefore, the appeals on ground (b) fail.

Appeal A - Ground (a) and the Deemed Planning Application

Main Issues

11. The main issues are the effect of the development on the character and appearance of the area and its impact on highway safety.

Reasons

Character and appearance

12. The appeal relates to a dwellinghouse which occupies a prominent corner plot where Prospect Lane meets Yewhurst Road. Unlike most dwellings along Yewhurst Road, where the main private garden areas are positioned behind the houses and the frontages are open or otherwise enclosed by low-level boundary treatments, the appeal site's private garden directly borders the public highway along its side. Its rear boundary adjoins the side of the first dwelling in Yewhurst Road. Consequently, the site is inherently different from the standard plots that characterise much of the immediate surroundings. In such circumstances, a greater degree of enclosure is both expected and necessary to provide privacy, security and a clear separation between private residential open space and the public realm.
13. The site sits at a higher ground level than the adjoining footpath and carriageway. As a result, a substantial element of the development serves a retaining function, necessitated by the topography of the site rather than by a desire to create a high boundary enclosure. When viewed in this context, the overall height of the development cannot reasonably be assessed in the same manner as a conventional boundary wall erected on level ground.
14. At my visit I observed that the surrounding area displays a varied street scene comprising a mix of materials including brick walls, timber fencing, mature hedges and landscaped boundaries. In particular, there are other corner plots within the immediate vicinity that are enclosed by similarly prominent boundary features. The corner plot opposite the appeal site is defined by an extensive hedge and fence combination of considerable height and visual presence. As such, the appeal development is not an anomalous feature within the street scene but forms part of an established pattern whereby corner plots utilise more substantial forms of enclosure than those found along the open frontages of standard residential plots.
15. While the boundary treatment is readily visible from the public realm, visibility alone does not equate to harm. The fencing is uniform in appearance, the brickwork reflects materials used throughout the area, and the overall construction presents a coherent and orderly form of development. Furthermore, replacement planting has been introduced along the internal boundary and, as it matures, will soften the appearance of the enclosure and reinforce the verdant character that is a notable feature of the locality.
16. I also attach weight to the fact that the previous boundary consisted of a combination of walling, fencing and substantial vegetation. The development has therefore not introduced enclosure where none previously existed. Rather, it has replaced an existing boundary treatment with a new and more consistent form of enclosure. Furthermore, planning permission was granted on 19 September 2024,

ref. PL/2024/01497/MINFHO for 'Remodel to enhance visual appearance with new external materials and 2 No. front gables, ground floor infill extension and first floor rear extension, single storey detached replacement store and new fence to replace existing boundary hedge.'

17. The drawing provided by the Council, shows a boundary up to 2m high comprising brick and fence infill panels and brick piers running the length of the property along the back of the pavement alongside Yewhurst Road. The annotated drawing refers to the new fence replacing the existing boundary hedge. While the present boundary is moderately higher than that approved, I do not consider the excess height materially harms the character or appearance of the area.
18. Taking these matters together, I find that the boundary treatment responds appropriately to the site's corner position, elevated levels and unique relationship with the public highway. It reflects the varied character of surrounding corner plots, utilises materials commonly found within the area, and provides an appropriate means of enclosing private residential outdoor space. Consequently, I conclude that the development preserves the character and appearance of the area and does not result in unacceptable harm to the visual amenities of the street scene. Accordingly, the development is consistent with the objectives of the Council's adopted Household Extension Guidelines (2010), Policy P15 of the Solihull Local Plan (2013) and the aims of the National Planning Policy Framework (2026) insofar as it seeks to secure high-quality design that respects local character and distinctiveness.

Highway safety

19. The Council's concerns also relate to the effect of the boundary treatment on visibility for vehicles exiting the adjoining driveway. As noted above, planning permission was previously granted for a 2-metre-high boundary treatment consisting of brick and fencing. The principle of a substantial boundary enclosure adjacent to the highway has therefore already been accepted and is a material consideration in my assessment. The appeal proposal does not introduce an entirely different form of development, but rather a revised boundary treatment serving the same function of enclosing a private residential garden, albeit at a slightly higher level.
20. Furthermore, and as referred to above, the previous boundary was said to comprise a combination of fencing and substantial hedge planting. The vegetation is described as extending beyond the boundary line in places and providing a comparable level of enclosure. By contrast, the current boundary follows a straight and consistent alignment without encroaching into the highway or driveway. Consequently, there is limited evidence before me that the appeal development results in visibility conditions materially worse than those which previously existed.
21. Overall, I am not satisfied that the boundary treatment materially reduces safety for users of the highway network. The site has historically been enclosed by a combination of fencing and substantial hedge planting, and planning permission had been granted for a 2m high boundary fence at this location. Requirements in the notice also provide an option for the development to be altered so that it fully accords with the approved plans under PL/2024/01497/MINFHO, which as referenced above, would involve the erection of a solid boundary treatment up to 2m in height. In the absence of any technical highway evidence demonstrating a

material worsening of visibility or highway conditions, I am not persuaded that there is conflict with Policy P8 of the Solihull Local Plan in terms of highway safety.

Conclusion

22. The ground (a) appeal therefore succeeds.

Conditions

23. As the development is complete, no conditions are considered necessary.

Overall Conclusion

24. For the reasons given, I conclude that the appeals on ground (b) fail. I further conclude that the appeal on ground (a) and the deemed application for planning permission succeeds. Consequently, the enforcement notice will be quashed and planning permission granted on the deemed application.

S A Hanson

INSPECTOR