Planning Inspectorate

Appeal Decisions

Site visit made on 13 October 2026

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 November 2026

Appeal A Ref: APP/P2935/C/25/3368614
Appeal B Ref: APP/P2935/C/25/3368615
Land to the south of 15 Sycamore Grove, Prudhoe

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- Appeal A is made by Mr Mark Balmbra and Appeal B is made by Mrs Emma Balmbra against an enforcement notice issued by Northumberland County Council.
- The notice was issued on 5 June 2025.
- The breach of planning control as alleged in the notice is: without planning permission, the material change of use of the Land to extended residential curtilage and the addition of paving and associated landscaping.
- The requirements of the notice are to:
  A. Cease use of the land as an extension of the existing garden.
  B. Remove the paving and any associated development undertaken for the installation of the paving area. Remove all personal items, garden furniture and garden paraphernalia from the Land.
  C. Remove the east and west boundary fences enclosing the Land.
  D. Remove any resulting materials following the completion of steps A, B, and C from the Land.
- The periods for compliance with the requirements are:
  Requirements A, B, and C - 12 weeks from the date this Notice takes effect.
  Requirement D - 13 weeks from the date this notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended).

Summary Decisions: The appeals are dismissed and the enforcement notice is upheld with corrections and variations in the terms set out below in the Formal Decision.

Matters concerning the Enforcement Notice

1. I have identified a defect in the alleged breach of planning control that is specified on the Enforcement Notice (Notice). It is incumbent upon me to put the Notice in order, subject to there being no injustice to either party. In doing so, I have had regard to my powers under section 176(1) of the Town and Country Planning Act 1990 (as amended) (the 1990 Act) to correct any defect, error or misdescription in the Notice, and to vary the terms of the Notice, as appropriate.

2. The alleged breach of planning control refers to the use of land as “residential curtilage”, which is not a use of land. However, the parties' submissions, including the appellant's case, clearly indicate to me that the alleged use has been understood to concern the use of the land as residential garden. Therefore, by me correcting the allegation to instead refer to “residential garden”, which would not alter the scope or substance of the allegation, I am content there would be no injustice to either party. In addition, requirement A in paragraph 5 of the Notice also needs to be varied to refer to “residential garden” and reflect the allegation. For the same reasons I am also content no injustice would arise by this variation.

3. In addition, I note Requirement B within paragraph 5 of the Notice requires the removal of the paving “and any associated development undertaken for the

installation of the paving area", along with the removal of "personal items". As the reference to "any associated development undertaken for the installation of the paving area" is not sufficiently precise, it is likely that it would not be clear to a recipient of the Notice what exactly the associated development would be, and consequently how they would comply with the Notice. The reference to "personal items" is also vague, and similarly it is not sufficiently clear for a recipient of the Notice to know exactly what such items would need to be removed.

4. Therefore, I will delete references to these aspects of the Notice, but as their deletion would not make the requirements more onerous, and the breach of planning control would still be remedied by the requirements (as varied), I am content there would be no injustice to either party by this course of action.

5. The occupier of No. 16 Sycamore Grove has stated that the fence along the western boundary of the Land belongs to them. However, there is no evidence before me to indicate that they have any ownership or other legal interest in the Land to which the Notice relates. Nor has it been suggested by the occupier of No. 16, the appellants or the Council that the Notice ought to have been served on the occupier of No. 16. I have therefore treated their comments as representations from an interested party and, where relevant, as evidence concerning the fence and its history. The appeal has been determined on this basis.

Appeals on ground (f)

6. Section 174(2)(f) of the 1990 Act states that an appeal may be made on the ground that the steps required by the notice to be taken, 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.

7. Appeals A and B only contest requirement C, which relates to the removal of the east and west boundary fences, the other requirements on the Notice are not disputed, I have accordingly confined my assessment to requirement C only.

8. Section 173(4) of the 1990 Act states the purpose of the Notice must be to either (a) remedy the breach; or (b) remedy the injury to amenity. It cannot be both purposes as indicated by the Council in its submission. It is evident to me when reading the Notice as a whole, its purpose is to remedy the breach of planning control in this case.

9. In support of upholding the Notice requirements, the Council has referred me to appeal decisions[1] and caselaw (Murfitt v SSE & East Cambridgeshire CC [1980] JPL 598 and Somak Travel v SSE & Brent LBC [1987] JPL 630) in respect of how the removal of ancillary operational development and works can be required to remedy a breach of control arising from a material change of use.

10. The appellants have stated that the previous owner of the Land, cleared it and fenced it off, which they say includes the fence on the east of the Land. These works were said to have been undertaken before offering to sell it to them and also before the material change of use alleged took place.

11. The appellants have also provided an extract of a letter (undated), said to be from the Council to an occupier at 17 Sycamore Grove, confirming that clearance works

[1] Ref: APP/H2265/C/22/3306028 and APP/H2265/W/22/3304544

undertaken across the wider area (including the Land in question) did not require planning permission, and that no breaches of planning control were identified. It also states the new fence erected to the rear of properties by the previous owner, understood to include the Land, was permitted development in accordance with Schedule 2, Part 2, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

12. In addition, the fence to the western side, is said by the adjoining occupier at 16 Sycamore Gove, to belong to them and to have been erected in accordance with permitted development rights (contained within the GPDO) and said to have been confirmed as such by the Council's Enforcement Officer in May 2024. The comments of the occupier of no.16 would indicate that the Council treated the fence to the west side as operational development at that time (which was before the Notice was issued) and separate to any material change of use of the Land, when confirming it was permitted development. The occupier of no.16 also stated that both the east and west fences in question predate the paving installed on the Land, which further supports the appellants claim that the fences were erected before the material change of use occurred.

13. The Council in its submission has not disputed any of the submitted evidence regarding the fences. Moreover, it also referred to the erection of boundary fences, prior to the material change of use the subject of this appeal taking place, although it maintains that they are part of the breach of planning control. I saw on my site inspection that the fences on the east and west sides of the Land appear similar to each other in terms of their height, design, and materials. There was nothing apparent from their appearance or condition to suggest that the western fence had been erected materially later than the eastern fence. My observations therefore provide no reason to depart from the appellants' account as to the sequence of events.

14. Against this background of information, and with no evidence to the contrary, I find that the eastern fence was most likely erected by the previous owner before the material change of use of the Land occurred. The evidence also indicates that the erection of the fence to the west, whether or not it was erected at the same time constituted separate operational development, which preceded the material change of use on the Land.

15. Although the fences partly enclosed the land, that does not, of itself, establish their erection was integral to, or part and parcel of, the material change of use. On the evidence before me, the fences to the east and west were separate forms of operational development which predated that material change of use, and there is insufficient evidence to establish the necessary relationship between those works and the subsequent material change of use.

16. Moreover, as the evidence indicates that the fences were already in place before the material change of use occurred, their removal would not be necessary to return the Land to its condition before the breach took place. Rather, their removal would alter that pre-existing condition.

17. In light of my findings above, applying the principles established in caselaw and the appeal to which the Council has referred, I do not find that the east and west fences have been shown to be ancillary works that were integral to, or part and parcel of, the material change of use. Accordingly, those principles do not justify

requiring the removal of the fences in order to remedy the breach of planning control.

18. Therefore, Requirement C relating to the removal of the east and west fences would be excessive to remedy the breach of planning control. The appeals on ground (f) therefore succeed to this extent. I shall vary the Notice accordingly by deleting Requirement C and the associated period for compliance.

Appeals on ground (g)

19. An appeal on this ground is that the period specified in the Notice falls short of the period that should reasonably be allowed. The Notice specifies a staged compliance period of 12 weeks for the use to cease and for the associated operational development and works to be removed, and 13 weeks from the Notice taking effect for all such materials to be removed from the Land. The appellants seek a longer period of 52 weeks, due to difficulties obtaining the services of a specialist contractor to undertake the works, and because of possible adverse weather conditions.

20. The appellants have not provided any precise information from prospective contractors regarding their availability for undertaking the compliance works, or their lead-in times for such work. Furthermore, the requirements do not involve complicated clearance works. Nor has it been sufficiently demonstrated why weather conditions would require an extended period for compliance. Therefore, there is insufficient evidence before me to demonstrate that additional time is required to comply with the Notice.

21. In addition, I saw on my site inspection that the unauthorised paving, garden furniture, and garden paraphernalia had already been removed from the Land. This, together with my findings above on the ground (f) appeals, further confirms to me that to comply with the requirements of the Notice (as varied) are reasonable.

22. As such, I do not find that the period specified in the Notice falls short of what should reasonably be allowed. The appeals on ground (g) therefore fail.

Other Matters

23. The comments made by interested parties are noted, which in addition to the matters addressed above, also include, but are not limited to, comments that the Notice should require the reinstatement of the woodland areas; relate to the wider fenced off area; require new planting; the removal of the southern fence; and the reinstatement of a rear fence aligned with no.14 Sycamore Grove.

24. However, the purpose of the Notice is to remedy the breach of planning control on the land to which it relates. There is insufficient evidence before me to establish the previous landscaping or boundary arrangements, or otherwise to justify the additional works and changes to the Notice. Such changes could extend the scope of the alleged breach or make the requirements more onerous, and I cannot be satisfied that they could be made without injustice. Subject to the corrections and variations already set out above, I am satisfied that the Notice is otherwise in order and complies with section 173 of the 1990 Act.

Conclusion

25. For the reasons given above, I conclude that requirement C of the notice is excessive to remedy the breach of planning control. I shall vary and correct the enforcement notice prior to upholding it. The appeals on ground (f) succeed to that extent.

Formal Decisions

26. It is directed that the Notice is corrected and varied by:

- in paragraph 3.1, delete the words "residential curtilage" and substitute with "residential garden";
- in paragraph 5, delete the words “A. Cease use of the land as an extension of the existing garden“ and replace with “A. Cease the use of the land as residential garden”;
- in paragraph 5, delete “and any associated development undertaken for the installation of the paving area. Remove all personal items”;
- in paragraph 5, delete requirement C in its entirety and re-letter the order of requirements, and in re-ordered requirement C delete “steps A, B, and C” and replace with “steps A and B”; and,
- in paragraph 6, delete C in its entirety and re-letter the order of compliance requirements accordingly.

27. Subject to the corrections and variations, the appeals are dismissed and the enforcement notice is upheld.

A Hunter

INSPECTOR