



Appeal Decisions

Site visit made on 27 June 2026

by **A U Ghafoor BSc (Hons) MA MRTPI FCMi fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 04th August 2026

Appeal A and B Refs: APP/B5480/C/25/3360522 and 3360523

22 Nelmes Crescent Hornchurch RM11 2QB

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the “Act”).
- The appeals are made by Mr Mehtab Iqbal (Appeal A) and Mrs Sabina Sath (Appeal B) against an enforcement notice issued by the Council of the London Borough of Havering.
- The enforcement notice was issued on 15 January 2025.
- The breach of planning control as alleged in the notice is the construction of front boundary treatments facing Nelmes Crescent.
- The requirements of the enforcement notice are to: 1) demolish to ground level the boundary treatments facing Nelmes Crescent within the front curtilage from the area as shown marked red on the plan attached to the notice as LBH 1 OR 2) Reduce the boundary treatments facing Nelmes Crescent within the front curtilage from the area as shown marked red on the plan attached as LBH 1 to a height no more than 1 metre at any part, and 3) Remove all debris, rubbish or other materials accumulated as a result of taking steps (i) to (ii) above
- The period for compliance with the requirement is 2 months.
- The appeals are proceeding on the grounds set out in section 174(2) (c), (d), (f) and (g) of the Act.

Summary of Decisions: The enforcement notice varied and upheld in the terms set out below in the Formal Decisions.

Preliminary matters

1. On 19 December 2024, Inspector Leigh dismissed an appeal the against refusal of planning permission for the front boundary treatment¹. Insofar as relevant to the appeal before me, that decision makes clear the development enforced against is unacceptable in terms of planning merits. It has very little bearing, if any, on the legal grounds of appeal selected by the appellants.
2. Statutory declarations have been submitted, and I have reviewed all this evidence in the context of these appeals. Arguments made on ground (d) overlap with ground (c) and are best addressed under that matrix. I proceed.

Ground (c)

3. The ground of challenge is that the construction of the boundary wall, pillars and gate does not require planning permission. The appellants explain they required a robust and secure boundary treatment because of security issues and that reasoning forms a common thread in the submitted representations. Essentially, the argument is that two self-contained building operations have been carried out: first, alteration of the existing wall by altering its height in around 2018, and second the fitting of railings and gates in 2022. The appellants provide an explanation as to why there is a gap due to financial reasons, but that does not necessarily mean two or more self-contained building operations have occurred.

¹ Appeal ref: same prefix as this appeal ending in 3349346.

4. The front boundary treatment comprises 4 pillars with decorative caps. There is an intervening low-level wall, and the gap is filled with metal railings and gates. The evidence about the nature of the work is unclear. For example, the appellants explain that the wall had undergone several modifications to enhance security. Initial work is said to have begun in the summer of 2018 and finished in winter of the same year. The claim is that the building work was done by a contractor who replaced the pre-existing wall. To me, the size and scale of the front boundary treatment required significant work to replace the pre-existing wall and erect a new structure². The work was done by someone trading as a builder or with specialist knowledge and expertise. The construction of the boundary treatments falls within the definition of the word “development”. I consider the issued notice accurately describes the alleged breach of planning controls.
5. Although a decorative feature, the boundary treatment forms one whole structure and acts as a physical barrier between private and public realm. In its entirety, it is designed to function as a security measure, which matches with the appellants’ intentions. Without the metal railings there would be a wide gap allowing free access albeit jumping over the intervening wall. The railings were required to result in a boundary treatment that functions as a security measure. When the appearance and design is considered in combination with the reasons for the boundary treatment, as a matter of fact and degree I find that its construction did not comprise two or more separate building operations: it was formed via a single building operation.
6. By virtue of Class A, Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure is permitted development. However, these rights are subject to limitations. Amongst other things, paragraph A.1(a) sub (ii) states development is not permitted if the height of any gate or wall erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed 1 metre above ground level. Subsection (c) is also relevant because development is not permitted by Class A where the height of any gate or wall or other means of enclosure altered would, because of the development, exceed its former height or the height referred to in paragraph (a) as the height appropriate to it if erected or constructed, whichever is the greater.
7. The evidence presented clearly shows that the wall and pillars exceed the 1 m height limitation and, even if the railings and gate were added in 2022, the resultant boundary treatment cannot benefit from deemed planning permission by virtue of GPDO Part 2 Class A. This is because of its overall height and location. Therefore, express planning permission is required, and it has not been obtained. Ground (c) must fail.

Ground (d)

8. For these appeals to succeed the appellants need to show, on the balance of probabilities, that at the date when the notice was issued no enforcement action could be taken in respect of the front boundary treatment, due to the passage of time. The onus is upon them, and they need to show that the front boundary treatments were substantially completed on or before the relevant date, which is 15 January 2021.
9. The appellants’ argument is that the wall and pillars were constructed by winter 2018 using a different building company and thus are lawful due to the passage of time. Although there is contradictory evidence in the form of publicly available street view images which appear to show a low-level boundary wall in May 2021, the appellants challenge these images as they believe

² Section 336(1) of the Act defines “building” as any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building.

recorded dates have been shown to be wrong. However, apart from generalised statements and comparisons with other locations in the area and reference to online research, the appellants do not produce evidence of their own showing how and why the dates are inaccurate nor do they provide sufficient information showing how the images are erroneous in relation to the appeal site.

10. Be that as it may, at risk of repetition, the construction of the boundary treatment that is the subject of this notice comprised a single building operation and not two or more separate self-contained operations. The boundary treatment was, in my planning judgment, substantially complete once the metal railings and gates had been installed. This is because the boundary treatment became a fully detailed structure that is characteristic of a means of enclosure once the railings and gate were installed. Otherwise, the latter would not have functioned as an impenetrable boundary because the site remained accessible. Clearly, the appellants own evidence shows they always intended to construct a solid boundary treatment, and the fitting of the railings and gate achieved that purpose.
11. Drawing all the above threads together, I find that the appellants own evidence is not sufficiently precise given the available contradictory evidence. In any event, the boundary treatment was substantially complete in 2022 once the railings and gate were installed thus affording it a fully detailed building or structure of a certain character. The alleged matters are not time-barred, and ground (d) therefore fails.

Ground (f)

12. The challenge is that the steps required to be taken exceed what is necessary to remedy the construction a front boundary treatment. It is not appropriate to introduce arguments on merits disguised as obvious alternatives in the context of ground (f). The Act cannot be interpreted as allowing a submission that the requirements exceed what is necessary to remedy any injury to amenity where the purpose of the requirements is to be found wholly within s173(4)(a). The power to vary the terms of the notice in s176(1) cannot be used to attack the substance of the notice.
13. From the notice, it seems to me its purpose is to remedy the breach by either demolition or to reduce the height of the boundary treatment to 1 m: any lesser step must achieve the same end. I disagree with the submission that the steps required, as set out in section (5) to the issued notice, are confusing or imprecise. On the contrary, the notice tells the recipient what has gone wrong and what needs to be done to put things right.
14. The requirements of the notice should be proportionate in the sense of being the minimum necessary to remedy the breach. However, in this appeal there is no deemed planning application. Arguments about the effect of the development on the locality, existence of other boundary treatments in the area, street scene and decisions, or the need for security are fruitless: in any event, most if not all these arguments have been considered by Inspector Leigh.
15. That said, the agent submits step 5 sub (ii) should be varied to the following: “*Reduce the walling railings and gate to that shown on plans marked option...*” and there are 8 alternative options. Compared to total demolition or reduction, the claim is that this alternative or lesser step would remedy the harm caused by the subject boundary treatment at less cost and disruption. A menu of potential options has been presented to me in the form of drawings. I have carefully reviewed all these options and arguments but, to my mind, none of the proposed alternatives achieve the purpose behind the notice, which is to remedy the breach given the overall height and location of the boundary treatment.

16. The alternatives proposed include significant alterations to the infill railings and gates. The under-enforcement proposed would result in potential development that is different in terms of design and layout resulting in a visually different boundary treatment the planning merits of which requires assessing.
17. I find that the issued notice's requirements are the bare minimum required to remedy the breach and each option advanced as alternative would require a full merits-based assessment. The issued requirements are not excessive and are proportionate. Ground (f) fails.

Ground (g)

18. The challenge is that the period of compliance is too short. Even if the Council consider the work to be minor and could be done within 1 day, a suitable contractor would need to be sourced. Given the nature of the steps required by the notice, total demolition or careful removal will require some degree of advance planning and specialist expertise. The work would need to be arranged and carried out, and the appellants say the material would need to be suitably stored possibly elsewhere. I consider that extending the period of compliance to 6 months is a proportionate response and strikes the right balance between private and public interest in this specific case. It might allow some breathing space for the appeal parties to consider the potential alternatives advanced in the context of planning merits. Ground (g) succeeds to this limited extent only.

Overall conclusions

19. In my planning judgment and having regard to all other matters raised, I conclude that the appeals on ground (c), (d) and (f) fail. As I am varying the period of compliance, ground (g) succeeds.

Appeals A and B - Formal Decisions

20. The enforcement notice is corrected by the deletion of the following text in section 6: time for compliance:

"Two months"

and the substitution therefor by the following text:

"Six months".

21. Subject to this variation, the appeals are dismissed and the enforcement notice is upheld as varied.

A U Ghafoor

INSPECTOR