



Appeal Decision

by S A Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 22 May 2025

Appeal Ref: APP/P4605/C/24/3352598

375 City Road, Birmingham B17 8LD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr N Hussain against an enforcement notice issued by Birmingham City Council.
 - The notice was issued on 29 August 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised erection or a single storey rear extension in the approximate position marked in green on the attached plan.
 - The requirements of the notice are to:
 - i) Demolish the unauthorised single storey rear extension in its entirety and remove all demolished materials from the Premises; **or**
 - ii) Carry out remedial works to comply with the approved plans under planning application reference 2021/10867/PA.
 - The period for compliance with the requirements is: 6 (six) months.
 - 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).
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Decision

1. It is directed that the enforcement notice be varied by the deletion of “Step ii)” in part 5 of the notice and substituted with the following text:
 - ii) Carry out remedial works to comply with the terms of the planning permission 2021/10867/PA, including its conditions and limitations and remove all constituent materials resulting from compliance with this requirement from the property.”
2. Subject to this variation, the enforcement notice is upheld.

Preliminary Matter

3. Because there is no ground (a) appeal and consequently no deemed planning application, the merits of the development are not relevant to my deliberations.

Matters concerning the notice

4. For clarity, part 5 of the notice should be modified by requiring any remedial works to comply with the terms of the permission including its conditions and limitations rather than just the approved plans. As this would make the requirements no more onerous, and thus no injustice would be caused to either party, the notice can be corrected under s176 of the 1990 Act.

Appeal on ground (f)

5. An appeal on ground (f) is that the steps required by the 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. In this case, the purpose of the notice is to remedy the breach¹. For the appeal on ground (f) to succeed, the appellant must propose alternative steps which would remedy the breach.

6. The appellant considers that the requirement to remove fully the unauthorised extension is excessive and that they should be allowed to re-use or adapt the unauthorised extension to enable the construction of the approved scheme.
7. The notice provides the appellant with the option of *either* demolishing the structure *or* carrying out remedial works to comply with the planning permission. There are no other options suggested by the appellant and there is nothing short of complying fully with either of the requirements of the notice to remedy the breach.
8. The appeal on ground (f) fails.

Appeal on ground (g)

9. The appeal on ground (g) is that the compliance period specified in the notice in accordance with s173(9) of the 1990 Act, falls short of what should be reasonably allowed.
10. By reason of the nature of the requirements, it is said that the tenant would be required to vacate the property. As there is a 6-month rolling tenancy in place the period for compliance is considered insufficient to allow for the tenant to be given notice to leave the property and to undertake the specified remedial works. The appellant has requested that the compliance period be extended to 12 months.
11. I have no evidence to show that the property is tenanted or that the appellant would need to give more than one month's notice on a 6-month rolling tenancy. Therefore, I am not satisfied that the steps to comply with the enforcement notice could not be undertaken within the given timeframe.
12. Therefore, the appeal fails on ground (g).
13. Notwithstanding my decision on the ground (g) appeal, I note that the Council has indicated its willingness to extend the time to comply with the requirements of the notice, if it is deemed necessary, and there is evidence to demonstrate that the works cannot be completed within the 6 months' timeframe.

S A Hanson

INSPECTOR

¹ Section 173(4)(a) of the Act.