



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 3 June 2025

Appeal ref: APP/G5180/C/25/3360306

Land at 36 Yester Road, Chislehurst, London, BR7 5HR.

- The appeal is made under section 174 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991.
- The appeal is brought by Helen Swinfield against an enforcement notice issued by the London Borough of Bromley.
- The notice was issued on 14 January 2025.
- The breach of planning control as alleged in the notice is: "Without planning permission, the operational development at the Land in the approximate area hatched in green on the Plan comprising engineering operations to the rear garden including installation of an outdoor pool with equipment shed, earthworks altering the ground levels and installation of permeable surface around the pool".
- The requirements of the notice are as set out in the annexe to the decision.
- The time period for compliance with the notice is: "Within 6 months after this notice takes effect".
- The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The appeal is dismissed and the enforcement notice is upheld without variation.

Reasons for the decision

1. The appellant requests more time to comply with the requirements of the notice in order to source a specialist contractor to remove the reinforced concrete while protecting the tree roots, and her husband will have to complete much of the work due to the high costs involved, while needing to care for elderly relatives. The appellant therefore suggests that the period for compliance be extended to 18 months.
2. While I note the appellant's reasons behind the request, extending the compliance period to 18 months is tantamount to granting a temporary planning permission, which I have no powers to do under an appeal made on ground (g). I am also mindful that nearly 4 months have elapsed since this appeal was submitted with enforcement action effectively suspended. As the compliance period will begin again from the date of this decision, the appellant will effectively have had nearly 10 months in which to comply with the requirements of the notice. I consider this period to be both reasonable and proportionate and provides a balance between the personal needs of the appellant, and the need to bring the stated harm caused by the unauthorised development to neighbouring properties to an end as soon as possible. Therefore, I am not satisfied there is good reason to justify extending the compliance period further. The appeal fails accordingly.

3. However, while I am dismissing the appeal, should the appellant experience any genuine difficulties, it is open to her to submit a request to the Council to use their powers under section 173A(1)(b) of the 1990 Act to extend the compliance period themselves, should they be satisfied there is justification for doing so.

Formal decision

4. For the reasons given above, the appeal is dismissed and the enforcement notice is upheld without variation.

K McEntee

Annexe to the decision

WHAT YOU ARE REQUIRED TO DO

(a) Permanently remove from the Land the swimming pool and the permeable hard surface installed around the pool and when doing so, any works within the root protection area of the TPO oak tree must follow the following steps:

(i) Works must be undertaken inwards within the footprint of the existing pool

(ii) Exposed roots must immediately be wrapped or covered to prevent desiccation and to protect them from rapid temperature changes.

(iii) Any wrapping must be removed prior to backfilling, which must take place as soon as possible. Roots smaller than 25 mm diameter may be pruned back, making a clean cut with a suitable sharp tool (e.g. bypass secateurs or handsaw), except where they occur in clumps. Roots occurring in clumps or of 25 mm diameter and over must be retained.

(iv) Prior to backfilling with soil, retained roots must be surrounded with topsoil or uncompacted sharp sand (builders' sand must not be used) or other loose inert granular fill, before soil or other suitable material is replaced. This material must be free of contaminants and any foreign objects potentially injurious to tree roots and

(b) Lower the ground of the Land to its level before the breach of planning control occurred, and

(c) Remove from the Land any resultant debris.