



Appeal Decisions

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by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 JULY 2025

Appeal A Ref: APP/W4705/C/25/3360687

Appeal B Ref: APP/W4705/C/25/3360688

141 Park Road, Thackley, Bradford, West Yorkshire, BD10 0TH

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - Appeal A is made by Miss Lisa Smithies and Appeal B is made by Mr Stuart Greaves against an enforcement notice issued by City of Bradford Metropolitan District Council.
 - The notice was issued on 30 January 2025.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of an extension to the north-east facing (side) elevation of the building on the land, as shown in the attached photograph.
 - The requirements of the notice are to i) demolish the unauthorised extension, and ii) remove all arising materials from the land.
 - The period for compliance with the requirement is three calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (d) of the Town and Country Planning Act 1990 (as amended).
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Decisions

1. The appeals are dismissed, and the enforcement notice is upheld.

Ground (d) appeals

2. An appeal made on ground (d) is that at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. In an appeal against an enforcement notice on ground (d), the burden of proving relevant facts is on the appellant, and the relevant test of the evidence is on the balance of probability.
3. In this case, and for the appeal extension to be lawful under section 171B of the Act, it would be necessary for it to have been substantially completed for four years prior to the notice being issued. The Council's evidence, including photographs, demonstrates that the extension was not substantially completed in June 2022. In this regard, and as the notice was issued on 30 January 2025, the Council states that four years cannot therefore be claimed.
4. The onus is on the appellants to make their case in respect of the ground (d) appeal. In an email to the Planning Inspectorate dated 14 February 2025, one appellant commented '*we are currently looking for photos and proof of when it was 4 years ago, and we want to appeal on ground d*'. No such '*photos and proof*', or indeed any other objective or compelling evidence, has been submitted by the appellants as part of their ground (d) appeals. Moreover, the appellants do not provide any contrary evidence to that provided by the Council.

5. On the evidence that is before me, and, on the balance of probability, I find that the evidence demonstrates that when the notice was issued it was not too late to take enforcement action. The extension is not therefore immune from enforcement action, and I therefore conclude that the ground (d) appeals fail.

Ground (f) appeals

6. An appeal on ground (f) is made on the basis 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, or to remedy any injury to amenity which has been caused by any such a breach.
7. The purpose of the notice is to remedy the breach of planning control. In this regard, the requirement to demolish the extension is not an excessive requirement. On the appeal form, and in respect of the ground (f) appeals, the appellants comment '*could it be accepted if we were to remove the parapet roof*'. This is not a ground (f) appeal matter. It is a matter that is relevant to the consideration of a ground (a) appeal and a deemed planning application. The ground (a) appeal was barred at appeal validation stage given the refusal of planning permission¹ for the same development.
8. I am not able to consider the planning merits of an alternative side extension in the absence of a ground (a) appeal and hence a deemed planning application. If the appellants would like to explore the possibility of a different side extension and/or the retention of part of the matters alleged in the notice, it would be necessary for them to discuss this further with the Council including, if necessary, the submission of a planning application. If any such planning application were to be approved for part of the matters alleged, then it is noteworthy that section 180 of the Act states that '*the notice shall cease to have effect so far as inconsistent with that permission*'.
9. I conclude that the requirements of the notice are not excessive and that they remedy the breach of planning control. Therefore, the ground (f) appeals fail.

Conclusion

10. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice.

D Hartley

INSPECTOR

¹ Planning application reference 24/01118/HOU