



Appeal Decisions

Site visit made on 8 July 2025

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2025

Appeal A Ref: APP/F2415/C/23/3322468

Appeal B Ref: APP/F2415/C/23/3322469

Land to rear of Blackberry Way, Main Street, Leire LE17 5HF

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeals are made by Ms Nina Messenger (Appeal A) and Mr Paul Preece (Appeal B) against an enforcement notice issued by Harborough District Council.
- The notice was issued on 11 April 2023.
- The breach of planning control as alleged in the notice is: Without planning permission, the installation of a concrete base and timber gazebo to the rear of the Land as shown in photographs attached at Appendix 1 of this notice.
- The requirements of the notice are to: Dismantle and remove the concrete base and timber gazebo and any resulting debris from the Land.
- The period for compliance with the requirements is six months.
- The appeals are proceeding on the grounds set out in sections 174(2)(a) and (f) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decisions: The appeals are dismissed and the enforcement notice is upheld with a correction in the terms set out below in the Formal Decisions.

Preliminary Matters

1. Appeals A and B relate to the same site and the same enforcement notice. I shall therefore deal with them together.
2. The revised National Planning Policy Framework (the Framework) was published in December 2024. This does not raise any matters that require me to seek representations from the main parties in this case.

Matters concerning the notice

3. The notice states that it was issued under section 172 of the Act, which relates to the circumstances in which a local planning authority may issue a notice and how the notice should be served. However, the notice should have stated which part of section 171A(1) the development is in breach of. The development falls under section 171A(1)(a), which is the carrying out of development without the required planning permission. I consider that this minor error can be corrected without injustice to either of the parties.

The ground (a) appeals and deemed planning application

4. An appeal on ground (a) is that planning permission should be granted. The main issues in this case are the effect of the development on the character and appearance of the area, including the Leire Conservation Area and the settings of The Old Manor House, a Grade II listed building, and the Queens Arms Public

House, a non-designated heritage asset; and the effect on the living conditions of the occupiers of The Hooples and Carnaby House, with particular regard to outlook.

Character and appearance and heritage assets

5. The appeal site relates to a detached dwelling situated on the western side of Main Street close to the junction with Back Lane. The property is served by a driveway and a garden to the front and a more private rear garden which steps up to a higher level towards the rear boundary of the site. The rear garden, which is bordered by neighbouring properties to the north, south and west, is enclosed by fencing which is around 2 metres high.
6. The unauthorised development is a timber framed gazebo with a hipped, tiled roof which sits upon a concrete base at the end of the garden and is adjacent to both the rear boundary and parts of the northern and southern side boundaries of the site. A retrospective planning application for the retention of the development was refused by the Council in March 2023¹.
7. The site is located within Leire Conservation Area (the CA), the significance of which is derived predominantly from the numerous historic buildings which follow a linear pattern of development along Main Street and display a vernacular style and materials; and its history as a former agricultural village surrounded by flat countryside characterised by fields and hedgerows.
8. The elevated position of the development on the higher level of the garden and its proximity to the boundaries and neighbouring properties, together with its substantial footprint and expansive roof structure, result in an over dominant building and a cramped appearance. Although the development is located to the rear of the host property, its roof structure projects above the boundary fences and is visible from Back Lane and from Main Street in the narrow gap between the host property and Carnaby House. The scale and siting of the development therefore detract from the character and appearance of the area, and it fails to preserve the character and appearance of the CA.
9. The Old Manor House is a Grade II listed building located to the south of the site, with the adjacent bungalow (Lerosa) in between. It is set back from Main Street behind a high wall and gates and an outbuilding on the frontage. The Old Manor House is a timber framed, thatched property which the list entry refers to as largely sixteenth century with evidence of several phases of building (or rebuilding). Its significance stems from its age, form, fabric and architecture. The position of the building on Main Street is a significant part of its setting, though views of it are also possible from Back Lane and this contributes to its setting.
10. The Queens Arms Public House is a Local Heritage Asset (non-designated heritage asset in the language of the Framework) which derives interest from its historic value. Its prominent location on Main Street and position relative to other historic buildings, including the Old Manor House and the Church of St Peter on the other side of Main Street, contribute to the setting and significance of the building.
11. Although Lerosa is situated between the appeal site and the Old Manor House and the Queens Arms, both buildings are clearly visible from the rear garden of the host property. The substantial roof structure of the gazebo is visible from Back Lane in

¹ Council ref. 23/00184/FUL

the gap between the Hooples and Carnaby House. This view contributes to the setting of both buildings as it is one of the few places on Back Lane where they can be seen alongside the Church of St Peter. From here the gazebo is seen in the context of adjacent dwellings and similar, albeit smaller structures, which to some extent mitigates its impact on the setting of the Old Manor House and the Queens Arms. Nevertheless, the development intrudes into the view of both the Old Manor House and the Queens Arms from Back Lane and fails to preserve the setting of the buildings.

12. The Grade II* listed Church of St Peter lies at the southern end of Main Street. I share the Council's view that the development does not adversely affect the setting of this building given the separation distance and intervening built form.
13. I conclude that the development is harmful to the character and appearance of the area, including the Leire Conservation Area and the settings of The Old Manor House, a Grade II listed building, and the Queens Arms Public House, a non-designated heritage asset. It therefore conflicts with Policies GD8 and HC1 of the Harborough Local Plan 2011 – 2031 (the Local Plan) and Policies H5 and ENV6 of the Leire Neighbourhood Plan 2020 – 2031 (the Neighbourhood Plan), where these require development to enhance and reinforce the local distinctiveness and character of the area, and to protect, conserve or enhance the significance, character, appearance and setting of heritage assets.
14. The harm to the significance of the CA and the setting of the listed building is less than substantial. Paragraph 215 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this should be weighed against the public benefits of the proposal including, where appropriate, securing its optimal viable use. The development provides covered storage for the benefit of the occupants of the property. However, this is not a public benefit and carries limited weight. I do not find that there are any public benefits that would outweigh the less than substantial harm identified.

Living conditions

15. The Council is concerned about the effect of the development on the living conditions of the occupiers of the Hooples, which is the neighbouring dwelling situated to the rear of the site, and Carnaby House to the northern side.
16. There are several windows and doors to the rear elevation of the Hooples which face south towards its rear garden which is a modestly sized space enclosed by fences and hedging. The gazebo runs along part of the eastern boundary of the neighbour's garden and it is visible above the boundary fence. However, it affects only the eastern side of the garden, and this effect is mitigated by the low eaves height of the gazebo which is only slightly higher than the boundary fence and the hipped roof design which slopes away from the boundary. Given these factors, the development does not significantly affect the neighbour's outlook.
17. Carnaby House sits at a lower level than the gazebo which extends along a substantial part of the southern boundary of this neighbour's rear garden, which has an enclosed feel due to its position between the house and the side of the Hooples. While the development further encloses this space, it only affects the southern part of the garden, the remainder of which is unaffected, and its effects are reduced by the low eaves height and shallow hipped roof. The ground floor windows to the rear of this neighbouring property are situated a reasonable distance away from the site

and face towards the side of the Hooples, rather than towards the site. Therefore, the development does not result in a significant overbearing effect on this neighbour's property and garden.

18. The Council has identified no concerns regarding the effect on the living conditions of the occupiers of the bungalow to the south, Lerosa, and I have no reason to find otherwise.
19. For the reasons given, I find that the development is not harmful to the living conditions of the occupiers of the Hooples and Carnaby House, with regard to outlook. It therefore complies with Policy GD8 of the Local Plan and Policy H5 of the Neighbourhood Plan, which, amongst other things, seek to ensure that development minimises the effect on the living conditions of neighbouring residents through loss of privacy, overshadowing and overbearing impact.

Other considerations

20. Class E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits buildings incidental to the enjoyment of the dwellinghouse within the curtilage of the dwellinghouse, subject to a number of limitations. Development is not permitted under E.1 (e) if the height of the building would exceed:
 - (i) 4m in the case of a building with a dual pitched roof,
 - (ii) 2.5m in the case of a building within 2m of the boundary of the curtilage, or
 - (iii) 3m in any other case.
21. The Technical Guidance² sets out that the height of the building should be measured from the ground level adjacent to the building and, where this is not uniform, such as where the land slopes, then ground level is to be taken as the highest part of the ground next to the building.
22. There is no dispute that the gazebo is within 2m of the boundary. Although the appellants state that the structure is 3.2m high relative to the current ground level, they argue that as it was constructed by cutting into a bank which lowered the original ground level by up to 0.5m, the actual height of the structure is 2.7m which is only 0.2m higher than that permitted under Class E. However, substantive details of the pre-existing ground level have not been provided. During my site visit there were no obvious signs that the levels had been changed in this part of the site. I have therefore considered the building on the basis that it is 3.2m in height in relation to the pre-existing highest ground level next to the building. That is notably higher than the maximum height permitted under paragraph E.1 (e) (ii) of Class E, and this additional height is harmful for the reasons that I have identified. This consideration does not, therefore, alter my conclusions above.

Conclusion on the ground (a) appeals

23. The development conflicts with the development plan as a whole, and there are no other considerations to indicate that I should take a different decision other than in accordance with this. The appeals fail on ground (a) and planning permission will not be granted.

² Permitted development rights for householders, Technical Guidance, dated September 2019. MHCLG

The ground (f) appeals

24. An appeal on ground (f) is that the steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections. When an appeal is made on ground (f), it is necessary to understand the purpose of the notice. Section 173(4) of the Act sets out the purposes which an enforcement notice may seek to achieve, either wholly or in part. These purposes are either (a) the remedying of the breach of planning control or (b) remedying any injury to amenity which has been caused by the breach. In this case, the requirements of the notice are to dismantle and remove the concrete base, the gazebo and resulting debris. The purpose of the notice is therefore to remedy the breach of planning control by restoring the land to its condition before the breach took place.
25. The appellants contend that the concrete base upon which the gazebo stands has a minimal impact on the area. However, the concrete base is integral to the development and appears to have been installed in order to facilitate the construction of the gazebo, and there is no indication of how it would be used once the gazebo has been removed. Therefore, retaining the concrete base would not remedy the breach of planning control and I do not consider this requirement of the notice to be excessive.
26. The appellants consider that the reasons for serving the notice could be addressed by reducing the height of the gazebo, either through a 0.2m reduction to the height of the structure so that it complies with permitted development thresholds, or by replacing the hip with a flat roof. However, I have not been provided with an alternative scheme including plans to illustrate how such a revised building would be achieved or how it would look, to enable a comparison to be made with the existing building. That said, a 0.2m reduction in height would not overcome the harm identified, and it is likely that a new flat roof design in place of the hipped roof would be unsightly in the context of this area. Moreover, I cannot be sure that these changes would bring the development within the parameters of Class E permitted development for the reasons that I have set out earlier in this decision. In any case, the GPDO does not grant permission retrospectively, and there is no substantive evidence to indicate there is a real prospect that the appellants would demolish and reconstruct the gazebo so that it complies with Class E permitted development.
27. Therefore, the proposed lesser steps would not achieve the purpose of the notice which is to remedy the breach of planning control. The appeal on ground (f) fails.

Conclusion

28. For the reasons given, I shall uphold the enforcement notice with a correction and refuse to grant planning permission on the deemed application.

Formal Decisions: Appeals A and B

29. It is directed that the enforcement notice be corrected by deleting the words “section 172” in part 1 of the notice and replacing them with “section 171A(1)(a)”.
30. Subject to this correction, the appeals are dismissed and the enforcement notice is upheld.

M Ollerenshaw

INSPECTOR