



Appeal Decisions

Site visit made on 5 August 2025

by **S A Hanson BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date 10 October 2025

Appeal A Ref: APP/C4615/C/24/3340468

Appeal B Ref: APP/C4615/C/24/3340469

192 Spies Lane, Halesowen, West Midlands B62 9SP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- Appeal A is made by Mr Manjinder Chattha and Appeal B is made by Mrs Amrita Sekhon Chattha against an enforcement notice issued by Dudley Metropolitan Borough Council.
- The notice was issued on 6 February 2024.
- The breach of planning control as alleged in the notice is: Without planning permission, and within the last 4 years, the erection of a single storey front extension and a single storey rear extension to the bungalow ("the bungalow") situated on the land ("the Land").
- The requirements of the notice are to:
 - i) remove the single storey front extension
 - ii) remove the single storey rear extension
 - iii) reinstate any damaged walls at and any walls which have been removed from the bungalow and return the bungalow and the land to its pre-extension appearance as shown in Photo 1 and Photo 2 attached to this notice
 - iv) remove any debris or materials lawfully from the land as a result of carrying out steps 5 i), ii) and iii) of this notice.
- The period for compliance with the requirements is 2 (two) months.
- The Appeals are proceeding on the grounds set out in section 174(2)(a), (c), (f), (g) of the Town and Country Planning Act 1990 (as amended). (the Act). Since the appeals have been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. It is directed that the Enforcement Notice is corrected and varied by:

Deleting the alleged breach of planning control and substituting it with: "Without planning permission, the erection of a single storey rear extension."

- Deleting requirement i)
 - Deleting requirement iii) and re-numbering the requirements accordingly.
 - Substituting the 2 (two) months period for compliance with "6 (six) months".
2. Subject to the corrections and variation, the appeals succeed in part so far as they relate to the full width section of the rear extension. The appeals are dismissed in so far as they relate to the narrow wing of the rear extension and the Notice is upheld accordingly. Planning permission is granted for the full width section of the rear extension on the application deemed to have been made under s177(5) of the 1990 Act (as amended) at 192 Spies Lane, Halesowen, West Midlands B62 9SP.

Matters concerning the Notice

3. The single storey extension to the front of the property is also the subject of a separate appeal ref: APP/C4615/X/24/3346531 against the Council's refusal to issue a certificate of lawful development for the erection of a porch. The porch was determined to be lawful by virtue of the provisions of Article 3 and Class D of Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the 'GPDO'). Accordingly, reference to the porch (single storey front extension) should be deleted from the Notice.
4. Under s173(4)(a) of the 1990 Act, the purpose of remedying the breach of planning control may be achieved by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, discontinuing any use of the land, or, as is the case here, restoring the land to its condition before the breach took place.
5. Step iii requires the appellants to reinstate any damaged walls at and any walls which have been removed from the bungalow and return the bungalow and the land to its pre-extension appearance as shown in Photo 1 and Photo 2 attached to this Notice.
6. The image is not dated and as there is no certainty as to whether this was the condition of the area before the breach took place, it is considered that reference to the photographs should be removed from the requirement. Furthermore, it is enough to require that the land is restored to its condition before the development took place. The requirement shall be corrected by virtue of s176(1) of the Act without injustice to the parties.

Ground (c)

7. In an appeal on this legal ground the burden of proof rests with the appellants to show that, on the balance of probabilities, the matters alleged, if they occurred, do not constitute a breach of planning control.
8. The GPDO by way of Article 3, grants planning permission for certain types of development set out within the schedules and classes it contains. Schedule 2, Part 1 of the GPDO grants permission for development within the curtilage of a dwellinghouse, subject to specified conditions and limitations.
9. The appellants contend that what has been constructed to the rear of the property is a full width extension which measures 34.81sqm, extending 4m from the original rear elevation of the bungalow, and a free-standing outbuilding which has a floor area measuring 62.5sqm. They consider that individually each part of the development is permitted by virtue of Article 3 and Schedule 2, Part 1, Class A and Class E of the GPDO.
10. Class A allows for the enlargement, improvement or other alteration of a dwellinghouse subject to limitations and Class E authorises the provision within the curtilage of a dwellinghouse of any building required for a purpose incidental to the enjoyment of the dwellinghouse as such, subject to several limitations.
11. The Council has assessed both structures as one built form and has therefore made its assessment as to whether the single storey L shaped rear extension would be permitted development solely by virtue of Class A.

12. The development, which is considered by the appellants to be a free-standing outbuilding, is single storey with a flat roof with a maximum height of 2.5m. It is approximately half the width of the property and extends approximately 12.8m to the rear. One side elevation forms the boundary with the lane adjacent to the bungalow. There is a minimal gap between the full width section and the 'outbuilding'.
13. Under Class E, within the GPDO, there is no minimum gap requirement between the house and an outbuilding. Nevertheless, the Government's Permitted Development Rights for Householders – Technical Guidance, dated September 2019, (the Technical Guidance) while not determinative, provides useful guidance on the interpretation of the GPDO. The Technical Guidance states that buildings which are attached to the house are not permitted under Class E (they would be subject to the rules in Class A).
14. Although there appears to be a gap between the walls of the full width extension and what the appellant describes as an outbuilding, there is contact at roof height. From both sides, there is no discernible gap at this upper level. The flat roof of the 'outbuilding' is at a slightly lower level and fits snugly under the eaves of the full width extension. Here the rainwater goods are also linked. At my visit, I observed that the gap on the garden side exhibited signs of expandable foam or some form of resin which suggested to me that the gap may have been covered with boarding which had subsequently been removed.
15. With a gap of no more than 25mm between the structures measured on the outside elevation, and the physical contact with the roofs and guttering, I am not persuaded that it is a free-standing outbuilding. Furthermore, the perception of the development as a whole by a member of the public would be, more likely than not, that it is an extension to the bungalow. As such, I consider that what has been constructed to the rear of the bungalow is a single extension with an L shape form.
16. Thus, being considered against Class A of the GPDO ("the enlargement, improvement or other alteration of a dwellinghouse"), the rear extension would not benefit from PD rights because it would exceed the depth limitation set out in sub paragraph A.1(g)(i) extending beyond the rear wall of the *original dwellinghouse* (my emphasis) by more than 8 metres in the case of a detached dwellinghouse.
17. Even if I had concluded that the development to the rear of the bungalow was formed of an extension and an outbuilding, the full width extension would not comply with Class A.1(d). This is because the eaves height of the full width extension exceeds the eaves height of the original bungalow.
18. Moreover, as an outbuilding, that still would not have met Class E as I do not consider that its purpose is 'incidental' to the enjoyment of the dwellinghouse as such. Class E provides that a "purpose incidental to the enjoyment of the dwellinghouse" includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse.
19. Furthermore, an 'incidental purpose' would not cover normal residential uses, such as the use as a bedroom, bathroom, or kitchen. For purposes incidental to the use of the dwelling, this means a use that is not 'part and parcel' of the existing dwellinghouse use. Incidental purposes are generally regarded as being those connected with the running of the dwellinghouse or with the domestic or leisure

activities of the persons living in it, rather than with the use as ordinary living accommodation. Examples of incidental uses are parking/garaging, garden storage buildings, home gyms etc. From the presented evidence, it seems to me that the use is for living accommodation to supplement that provided in the bungalow.

20. To conclude on this legal ground of appeal, I consider that the extension to the rear of the property is development which does not benefit from planning permission granted by the GPDO. Since no planning permission exists for the development, it constitutes a breach of planning control. In reaching my decision, I have had regard to the appeals that have been brought to my attention by the appellant. While I am not aware of the full details of each of the appeals, it seems to me that this case differs in part due to the physical contact between the full width extension and the narrow wing.

21. The appeals on ground (c) therefore fail.

Ground (a) and the deemed planning application

Main issues

22. The main issues are the effect of the development on the living conditions of the occupiers of neighbouring properties in terms of sunlight, daylight and immediate outlook and the impact of the development on the character and appearance of the bungalow and the wider street scene.

Reasons

23. The dwelling is a traditional styled pitched roof interwar detached bungalow that is located at the end of a row of 8 similar styled bungalows. To the side of the bungalow is a narrow vehicular way which provides access to the rear of several of the dwellings either side of the appeal site.
24. The property is sited within a predominantly residential area that largely comprises of two-storey semi-detached properties. The bungalows had a modest footprint of approximately 71sqm when originally built. In the row of bungalows, most have retained their original character to the front and have been extended to the rear with modest additions. The appeal property was historically extended to the rear with modest extensions. Those extensions have since been demolished and replaced by a significant addition to the rear.
25. The addition to the rear of the bungalow is of a substantial depth extending some 16m into the rear garden, which is itself of limited size. This protrudes significantly beyond the rear elevation of the neighbouring properties and, although the development is limited in height being single storey with a flat roof, it extends some 700mm beyond the height of fence along the common boundary with the access road which runs to the side of the appeal property. While the narrow access road increases the distance between the appeal site and its neighbour to the northeast, the rear extension breaches the 45 degree code¹ with that property.
26. With regard to the southwest, although the full width section of the addition is of a similar depth to the conservatory addition to the immediate neighbour, the narrow wing, which is set back from the common boundary to the opposite neighbour,

¹ Dudley Council Residential design guide Supplementary planning document May 2023 Section 3

again breaches the 45 degree code. This signifies that the development likely impacts the occupiers of those properties in terms of daylight, sunlight and/or outlook. Although I consider that the extent of the development may have limited effect on daylight and sunlight to the neighbours. This is in part due to the separation between it and its neighbours, and the flat roof design which may well lessen the effect on the quantity of light towards those properties. Nevertheless, I do consider that it has a harmful effect on the outlook from both properties due to its unduly large scale and bulk.

27. Furthermore, with regards to the living conditions of neighbouring occupiers, the windows in the garden elevation of the rear wing allow for direct views across the low-level common boundary fence into the garden and rear windows of the neighbouring bungalow. This results in a direct loss of privacy by overlooking for those occupiers. Consequently, while I consider that any loss of light may be limited, the extent of the development is considered unacceptable in terms of the impact the build has on the outlook and privacy of the occupiers of those properties.
28. The scale of the overall development to the rear is significant in relation to the modest floor area of the original bungalow, and in these terms, it is not a subservient addition to the property. Furthermore, its design is in stark contrast with the traditional appearance of the property and the character of it and its neighbours in the row of eight. Although erected to the rear of the property, due to the adjacent roadway to the side of the property which leads to the rear of several neighbouring properties, the development is visually conspicuous in the public domain. The development is a dominant incongruous addition to what was originally a characterful bungalow of modest proportions.
29. Overall, I consider that the development, as a whole, is an overly prominent incongruous addition to the dwelling which is altogether out of scale with the bungalow. This is harmful to both the host dwelling and its immediate surroundings. It also has a negative effect on the living conditions of its immediate neighbours. It is for these reasons that I find conflict with Policies CPS4, ENV2, ENV3 and TRAN2 of the Black Country Core Strategy 2012 and Policies L1, S1 S6, S8 and S17 of the Dudley Borough Development Strategy, Planning Guidance Note 17 (The House Extension Design Guide) and Planning Guidance Note 12 (The 45 Degree Code). These development plan policies aim to promote high quality design and development which is appropriate in terms of its form, siting, scale and mass and which respects the context and character of the surrounding area. Furthermore, they seek to ensure that development does not have a detrimental impact on the character, form and design of the host dwelling and would not harm the amenities of the occupiers of neighbouring properties arising from loss of privacy and outlook.
30. Notwithstanding my findings on the extent of the development in its entirety, I consider that the full width rear section on its own would have limited impact on the living conditions of the occupiers of neighbouring properties. While the joining of the roof of this section to the bungalow is awkward and clumsy, I consider this on its own to have limited impact on the character of the bungalow as a whole, particularly as the neighbouring row of bungalows display modest additions of a similar size. Furthermore, the bungalow had been previously extended to the rear with an assortment of additions.

31. In these circumstances, and as it seems to me that the extension is physically and functionally severable, I consider that if just the full width section was to remain, it would be of limited harm to the character and appearance of the bungalow and wider setting, and the living conditions of neighbouring occupiers. Accordingly, I consider that there would be no conflict with Policies CPS4, ENV2, ENV3 and TRAN2 of the Black Country Core Strategy and Policies L1, S1 S6, S8 and S17 of the Dudley Borough Development Strategy, Planning Guidance Note 17 (The House Extension Design Guide) and Planning Guidance Note 12 (The 45 Degree Code).

Conditions

32. No conditions have been suggested by the Council and none are considered necessary.

Conclusion on ground (a) and the deemed planning application

33. For the reasons given above, I conclude that the appeals should succeed in part only, and I will grant planning permission for the full width extension to the rear of the property, but otherwise I will uphold the Notice with corrections and a variation and refuse to grant planning permission in respect of the narrow wing. Section 180 of the 1990 Act (as amended) provides that the Notice shall cease to have effect so far as inconsistent with the planning permission granted.

Ground (f)

34. The appeal on ground (f) is that the steps required by the Notice to be taken exceed what is necessary to remedy any breach.
35. Section 173 of the Act indicates that there are two purposes which the requirements of an enforcement Notice can seek to achieve. These are either to remedy the breach of planning control which has occurred (section 173(4)(a)), or to remedy any injury to amenity that has been caused by the breach (section 173(4)(b)).
36. The appellants consider that 'the removal of the rear elevation, partial demolition of the outbuilding and reinstatement of the bungalow and Land to its "pre-extension appearance" is unjustified and excessive'.
37. I have considered the impact of the full width rear section of the extension under the appeals on ground (a) and found it to be acceptable in planning terms. This would affect the requirements to re-instate the bungalow and land to its pre-extension appearance, as this would not be attainable. Nevertheless, it was considered that the requirements were excessive for the reasons given above in 'Matters concerning the Notice' and thus the requirements shall be deleted from the Notice.
38. There are no other suggested steps and no obvious alternative than the removal of the narrow wing section of the rear extension that would overcome the planning difficulties and remedy the breach of planning control. Given that the Notice does no more than seek to achieve the purposes of section 173(4)(a), it is not excessive.
39. The appeals on ground (f) therefore fail.

Ground (g)

40. An appeal on ground (g) is that any period specified in the Notice, in accordance with s173(9) of the Act, falls short of what should be reasonably allowed. I am mindful of the importance of striking a balance between enforcement that is intended to be remedial rather than punitive, while maintaining public confidence in the planning system. The appellant has requested that the compliance period be extended to 6 – 12 months to secure a suitable building contractor to undertake the demolition and rebuild the 1980s extension.
41. Due to the amendments to the Notice, there remains only the requirement to remove the narrow wing section of the extension to the rear of the dwellinghouse.
42. While I consider two months to fall short of what is reasonable to undertake the requisite physical works to comply with the Notice, particularly at this time of year, a six-month compliance period does not stand out as being patently unreasonable. I therefore will vary the terms of the Notice accordingly.
43. The appeals on ground (g) succeed to that extent.

S A Hanson

INSPECTOR