



Appeal Decision

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 16 October 2025

Appeal Ref: APP/X1925/C/24/3347940

The Studio, Manor Farm, Church Lane, Graveley, Hitchin SG4 7BN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr David Sandford against an enforcement notice issued by North Herts Council.
 - The notice was issued on 12 June 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of box dormer to North roof slope and the material change of use of the first floor of the building to self-contained studio flat, in the approximate position outlined in PINK and hatched on the attached plan.
 - The requirements of the notice are: (I) Demolish and remove the box dormer on the North roof slope (as shown outlined in ORANGE in Appendix A attached to this Enforcement Notice) and reinstate the roof slope; (II) Cease the use of the first floor of the building as self-contained studio flat and remove all associated fittings and fixtures associated with the unauthorised use; (III) Remove from the land all debris, items, building materials resulting from compliance with points (i) and (ii) above.
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. Although the appeal was only submitted under ground s174(2)(f) of the 1990 Act, in their grounds of appeal the appellant has referred to the box dormer on the north roof slope being in place for more than four years. Consequently, it is claimed that the dormer is now immune from enforcement action by virtue of s171B(1) of the 1990 Act and thus now lawful development. This is a 'hidden' appeal under s174(2)(d) of the 1990 Act. The Council has noticed this and commented on it. As such, there would be no injustice to either side if I was to consider this issue as a further ground of appeal.
3. There is no scope in ground (d) and (f) appeals to consider issues of planning merit such as the effect of the development on the character and appearance of the area, including the setting of the listed building, or on the living conditions of neighbours. Therefore, despite various comments about such matters, these are not relevant to the outcome of the appeal. Consequently, neither of the grounds of appeal require a visual assessment of the development. Therefore, I have been able to determine the appeal without visiting the site. The cases of the appeal parties have not been prejudiced by this course of action.

Hidden ground (d)

4. S191(2) of the 1990 Act specifies that for the purpose of the Act uses and operations are lawful at any time if (a) no enforcement action may then be taken in

respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason; and (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force. The relevant time limit for operational development is specified at s171B(1) of the 1990 Act. Consequently, it needs to be shown that, on the balance of probability, the box dormer was substantially completed for at least four years prior to date when the enforcement notice was issued. The material date therefore is 11 June 2020.

5. In legal grounds of appeal, such as ground (d), the burden of proof to make out the case rests firmly with the appellant. The appellant provides no evidence to back up the claim made. In contrast, the Council has supplied copies of aerial photographs that show in March 2022 the box dormer was not in place, but it was in August 2023. The photographs show that the appellant's claim about the dormer being in place for more than four years prior to the date of the notice is unfounded. The Council's evidence has also not been disputed. The ground (d) appeal thus fails.

Ground (f)

6. The enforcement notice requires the box dormer to be demolished and removed, for the use of the studio flat to cease and for all associated fixtures and fittings to be removed, and for all items arising from complying with these requirements to be removed from the land. As such, the purpose of the notice is to remedy the breach of planning control by discontinuing the use and restoring the land back to its condition before the breach took place, as set out at s173(4)(a) of the 1990 Act. The requirements do no more and no less than seek to achieve this purpose. Therefore, they do not exceed what is necessary. The ground (f) appeal also fails.

Conclusion

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

Gareth Symons

INSPECTOR