



Appeal Decision

Site visit made on 15 October 2025

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

an Inspector appointed by the Secretary of State

Decision date: 20 OCTOBER 2025

Appeal Ref: APP/A2280/C/24/3349682

20 Oakhurst Close, Chatham, Kent, ME5 9AN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Michael Reid against an enforcement notice issued by Medway Council.
 - The notice was issued on 15 July 2024.
 - The breach of planning control as alleged in the notice is without the benefit of planning permission the carrying out of unauthorised engineering operations involved in changing land levels, laying of hardstanding and the construction of retaining walls to create an off-road parking area on the Land.
 - The requirements of the notice are to (i) demolish the retaining walls (side and rear); (ii) remove all hardstanding associated with the unauthorised development in its entirety from the Land, (iii) remove all resultant debris and associated materials arising from compliance with the above requirements from the Land; iv) reinstate the brick boundary wall, and (v) backfill the void in the front garden area and reprofile to mirror the adjacent garden land.
 - The period for compliance with the requirements is five calendar months from the date when the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c) 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.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

2. The National Planning Policy Framework was revised in December 2024 and subsequently amended in February 2025 (the 2025 Framework). This replaces the previous version of the National Planning Policy Framework published in December 2023 and referenced in the reasons for issuing the notice. The 2025 Framework has not materially changed in terms of considering the ground (a) appeal main issues below.

Appeal on ground (c)

3. The appeal made on ground (c) is that the matters alleged do not constitute a breach of planning control. The onus is on the appellant to make a case on the legal grounds of appeal.
4. The appellant's claim on ground (c) is that they could soften the impact of the wall by planting and that this justifies granting planning permission. This is not a ground (c) matter and has been addressed as part of my consideration of the deemed planning application as part of the ground (a) appeal.

5. The proposed development comprises one single engineering operation including land level changes, the laying of hardstanding, and the construction of retaining walls. The engineering operation amounts to development as defined in section 55 of the Town and Country Planning Act 1990 (as amended) which states '*the carrying out of building, engineering, mining or other operations in, on, over or under the land, or the making of any material change in the use of any building or other land*'. The engineering operation is not permitted development in respect of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) and planning permission is required for it.
6. For the above reasons, I conclude that the ground (c) appeal fails.

Appeal on ground (a) and the deemed planning application

Mian Issue

7. The appeal made on ground (a) of section 174(2) of the Act is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice.
8. I have considered the reasons for issuing the notice and the main issue is the effect of the development on the character and appearance of the area.

Reasons

9. The appeal property is a modern brick built semi-detached dwellinghouse falling within a cul-de-sac. There is some variety to the design and appearance of the properties in Oakhurst Close, but on this side of the road there are three pairs of semi-detached dwellinghouses which are positioned on higher ground and essentially have the same original design. While there is the odd exception in the wider street, the frontages of most of the properties include linear driveways shared with landscaped gardens and low brick boundary walls. The front gardens provide pleasing soft frontages to the dwellinghouses breaking up the otherwise built and engineered environment and hence contribute positively and distinctively to the character and appearance of the area.
10. The Council has submitted photographs in its statement of case and hence I have been able to consider the appearance of the appeal site prior to the breach of planning control occurring. The land to the front of No. 20 Oakhurst Close was previously a sloping landscaped garden which mirrored that belonging to No. 18 Oakhurst Close, as well as those associated with the other pair of semi-detached dwellings beyond.
11. The breach of planning control includes a very wide driveway with dominant and imposing retaining walls. There is now a noticeable absence of landscaping to the frontage of the appeal dwellinghouse, and the excavated land profile is in stark and harmful contrast to the sloping nature of the landscaped frontage gardens associated with the other semi-detached dwellinghouses in this part of the street. In this regard, I do not find that the development assimilates well into this street. It appears as an overly engineered and incongruous addition in the street scene departing unacceptably from prevailing soft and landscaped character of the frontages to most of the other properties in the locality.
12. Given the extent and width of the driveway, and the height of the retaining walls, I do not consider that the limited area of land available that might accommodate

new landscaping would be sufficient to outweigh the identified harm caused to the character and appearance of the area. Even if it were possible to include some planting against the retaining walls, this would take some time to reach maturity and may not endure forever. Furthermore, this would not suitably address the changes in land levels relative to neighbouring land and the overall quantum of front garden that has been lost because of the unauthorised development.

13. For the above reasons, I therefore conclude that the development does not accord with the design requirements of policy BNE1 of the adopted Medway Local Plan 2003, or paragraphs 131 and 135 of the 2025 Framework.

Other Considerations

14. The appellant has commented that he applied for pre-application advice prior to the unauthorised development occurring. This is not disputed by the Council. The appellant's evidence demonstrates that he tried to follow this up with the Council without a response being received. I do not know why the Council did not provide pre-application advice to the appellant in a timely manner. This is a matter that the appellant will need to separately take up with the Council. However, it is not a matter which justifies the grant of planning permission.
15. Furthermore, the appellant has commented that he would like the breach of planning control to be considered as an amendment to his planning permission. I assume that the appellant is referring to a planning permission for a two-storey extension to the property. The deemed planning application as part of the ground (a) appeal relates to breach of planning control. It is not possible for me to consider amending an existing planning permission as part of the consideration of an appeal made under section 174 of the Town and Country Planning Act 1990 (as amended).
16. I have considered the representation made by the occupier of No. 13 Oakhurst Close who comments that it would '*seem sensible to maximise any off-street parking that can be made available*'. I acknowledge that the development would maximise off-street parking. However, the use of the land for car parking would mean that other vehicles could not then be parked on the adjacent street. This is because any such vehicles would block in off-street parked vehicles. In this regard, it is not the case that the development would result in a material increase in available on-street car parking space.
17. Both the appellant and the occupiers of No. 13 Oakhurst Close comment that if the development is required to be removed, it would undermine the foundations of the appeal dwellinghouse and that of the neighbouring property. I have not been provided with any objective evidence to support this view and, moreover, there is no technical evidence before me to demonstrate that it would not be possible to ensure compliance with the requirements of the notice, while at the same time ensuring that the appeal dwellinghouse, and the neighbouring dwellinghouse, are structurally sound.
18. I am mindful that an appeal on ground (g) is not pleaded, and, in any event, and based on the evidence that is before me, I find that a five-month compliance period is reasonable and proportionate. However, and, in this case, it is reasonable that I emphasise that if it transpires that it can be justified that a longer period is needed to deal with the requirements of the notice (e.g., perhaps for structural or foundation reasons) then under Section 173A(1)(b) of the Act the local planning

authority can ‘*waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9)*’.

19. None of the other considerations alter or outweigh my conclusion on the main issue.

Conclusion

20. For the above reasons, I conclude that the development does not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, the ground (a) appeal fails.

Appeal on ground (f)

21. The 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.
22. The appellant’s claim on ground (f) is that if they are required to remove the wall, it would compromise the foundations of both the appeal property and No. 18 Oakhurst Close. This is not a ground (f) matter. I have addressed this matter as part of my consideration of the deemed planning application and the ground (a) appeal.
23. The purpose of the notice is to remedy the breach of planning control. In this regard, the requirements of the notice are not excessive. I therefore conclude that the ground (f) appeal fails.

Conclusion

24. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

D Hartley

INSPECTOR