



Appeal Decision

Site visit made on 30 September 2025

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2025

Appeal A Ref: APP/P4605/C/24/3347350

20 Rookery Road, Birmingham, B29 7DQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mrs Mussarat Hussain against an enforcement notice issued by Birmingham City Council.
 - The enforcement notice was issued on 14 June 2024.
 - The breach of planning control as alleged in the notice is failure to comply with condition 5 imposed on a planning permission ref 2021/03310/PA which was granted on 20 July 2021.
 - The development to which the permission relates is 'retrospective application for change of use to a 9 bed HMO (sui generis), retention of dormer window to front and remedial works to re-install bay window to front'.
 - Condition 5 states that: 'The remedial works relating to the removal of the unauthorised single storey forward extension indicated on the plans hereby approved shall be carried out within a period of 4 months from the date of this consent.'
 - The notice alleges that the condition has not been complied with in that 'the unauthorised single storey forward extension has not been removed.'
 - The requirements of the notice are to:
 - 1) Demolish the unauthorised single storey forward extension in its entirety and reinstate the front of the property to its state as existed prior to the erection of the single storey forward extension in accordance with Condition 5 of planning approval 2021/03310/PA and in line with approved plans and in particular A115 Rev A and A116 and;
 - 2) Remove all demolished materials from the Land.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) 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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Appeal B Ref: APP/P4605/C/24/3347351

22 Rookery Road, Birmingham, B29 7DQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mrs Mussarat Hussain against an enforcement notice issued by Birmingham City Council.
- The enforcement notice was issued on 14 June 2024.
- The breach of planning control as alleged in the notice is failure to comply with condition 3 imposed on a planning permission ref 2021/03308/PA which was granted on 20 July 2021.
- The development to which the permission relates is 'retrospective application for change of use to a 9 bed HMO (sui generis), retention of dormer window to front and remedial works to re-install bay window to front'.
- Condition 3 states that: 'The remedial works relating to the removal of the unauthorised single storey forward extension indicated on the plans hereby approved shall be carried out within a period of 4 months from the date of this consent.'
- The notice alleges that the condition has not been complied with in that 'the forward extension has not been removed.'
- The requirements of the notice are to:
 - 1) Demolish the unauthorised single storey forward extension in its entirety and reinstate the front of the property to its state as existed prior to the erection of the single storey forward extension in

accordance with Condition 3 of planning approval 2021/03308/PA and in line with approved plans and in particular A115 and A116 and;

- 2) Remove all demolished materials from the Land.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) 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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Decisions

Appeal A

1. It is directed that the enforcement notice is:
 - corrected by deleting the words “paragraph (a) of section 171A (1)” in paragraph 1 and replacing them with “paragraph (b) of section 171A (1)”; and
 - varied by deleting “4 months” from paragraph 6 and replacing it with “6 months” as the period for compliance.
2. Subject to this correction and variation, 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.

Appeal B

3. It is directed that the enforcement notice is:
 - corrected by deleting the words “paragraph (a) of section 171A (1)” in paragraph 1 and replacing them with “paragraph (b) of section 171A (1)”; and
 - varied by deleting “4 months” from paragraph 6 and replacing it with “6 months” as the period for compliance.
4. Subject to this correction and variation, 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.

Procedural Matters

5. Appeal A and Appeal B relate to 20 and 22 Rookery Road respectively. The enforcement notices require the demolition of the alleged unauthorised single storey front extensions and reinstatement of the front of the properties to their previous condition. As the appeals relate to very similar developments on adjoining sites, and are made by the same appellant and raise the same issues, to avoid duplication I have considered the appeals in a single decision letter.

Matters relating to the notices

6. The change of use of the appeal properties to 9 bed houses in multiple occupation was approved conditionally in July 2021 under applications 2021/03310/PA (No 20) and 2021/03308/PA (No 22). Condition 3 of 2021/03308/PA and condition 5 of 2021/03310/PA are identical and require the remedial works relating to the removal of the unauthorised single storey front extensions to be carried out within 4 months of the date of the decisions.
7. As the extensions have not been removed, the notices allege a breach of conditions 3 and 5. However, the notices also state that the breaches of planning control fall

within paragraph (a) of s171A(1) of the Act which relates to carrying out development without the required planning permission, rather than paragraph (b) which relates to a failure to comply with a condition subject to which planning permission has been granted. Moreover, the Council's reasons for issuing the notices state that the breaches occurred within the last 4 years which suggests that they were considered as operational development rather than a breach of condition.

8. I wrote to the parties to seek clarification on this matter, and I have taken the comments received into account. The Council confirm that the notices are directed at a breach of condition rather than operational development. I do not consider that the notices are fundamentally defective, as suggested by the appellant, as they could have been directed at the carrying out of development without planning permission or a breach of condition without altering their purpose. However, in the interests of clarity the notices should be corrected to refer to paragraph (b) of s171A(1) of the Act. This correction can be made without causing injustice to either of the parties.

Ground (a) appeals and the deemed planning applications

9. An appeal on ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged.

Main Issue

10. The main issue in respect of both appeals is the effects of the developments on the character and appearance of the host properties and the surrounding area.

Reasons

11. 20 and 22 Rookery Road are two storey, mid terraced properties with pitched roofs, rear extensions, loft conversions and dormers. Rookery Road is residential in nature and is characterised by linear rows of two storey terraced properties which are stepped back a short distance from the road behind low boundary walls. Properties are faced in brick or render with tiled roofs, and many have ground floor bay windows to the front which often have small, pitched roofs above, alongside a separate entrance door.
12. The bay windows have been removed from the front of both appeal properties and replaced with single storey front extensions which mirror each other in design, with pitched roofs and entrance doors situated alongside large windows. The Birmingham Design Guide (2022) (the BDG) provides guidance on front extensions and notes that these can have a considerable impact on a home and the surrounding area, changing its visual appearance, removing original features and stepping the building beyond its existing footprint; such extensions will not be acceptable unless the proposal will improve the external appearance of the house.
13. The loss of the traditional bay windows and front doors which are a characteristic feature of this road, has eroded the character of the properties. The unauthorised extensions span the full width of the front elevations of the properties and are significantly larger than the previous bay windows. As a result, the extensions dominate the frontages, disrupt the building line and have a jarring effect within the street scene.

14. During my site visit I observed that some properties on the road have been altered, particularly through the erection of large dormers and alterations to fenestration. However, there remains a sense of uniformity due to the linear building lines and retention of many traditional bay windows. There are a small number of other single storey front extensions to neighbouring properties, but these do not contribute positively to the character of the area. Moreover, they appear to be of recent construction and there is no evidence before me to suggest that planning permission has been granted for them. These other extensions and alterations do not, therefore, justify the harm arising from the appeal developments.
15. For the above reasons I conclude that the developments are harmful to the character and appearance of the properties and the surrounding area. Accordingly, they conflict with Policy PG3 of the Birmingham Development Plan (2017) and guidance within the BDG which, amongst other things, seek to ensure that all new development achieves a high design quality that reinforces or creates a positive sense of place and local distinctiveness. The developments also conflict with the National Planning Policy Framework, including paragraph 135 which requires development to be visually attractive and sympathetic to local character, including the surrounding built environment. The Council refers to a conflict with Policy DM2 of the Development Management in Birmingham Development Plan Document (2021), but as this relates to the effects of development on the living conditions of occupiers and neighbours, I have not identified a conflict with this policy.

Other matters

16. The appellant contends that the fallback position of permitted development rights for the erection of front porches should be taken into account. However, as I have not been presented with details of what form such porches would take, I am unable to compare the fallback position to the appeal developments. There is no indication that such a fallback would present a greater degree of harm to the character and appearance of the properties or wider street scene. I therefore attach little weight to the fallback position, and it does not outweigh the harm identified.

Conclusion on the ground (a) appeals

17. The developments conflict 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.

Ground (g) appeals

18. This ground of appeal is that the time specified for complying with the requirements of the notice falls short of what should reasonably be allowed. The compliance period for both notices is 3 months.
19. I understand that bedrooms occupy the front extensions and that these need to be vacated so that demolition and construction works can be undertaken safely. The appellant says that the rooms are occupied under a tenancy agreement which does not expire until 30 June 2025. That has now passed, and I have not been made aware of current tenancy arrangements. However, it seems to me that a 3 month compliance period may be insufficient given the extent of the work required. I also note that this is a shorter period than the 4 months given in conditions 3 and 5 of

the planning approvals, which the Council considered a reasonable time frame for the remedial works to be carried out at that time.

20. Therefore, a period of 4 months would be appropriate as that should give the tenants sufficient time to vacate these spaces and for the remedial works to be carried out and would be consistent with the conditions of the planning approvals.
21. The appeals on ground (g) therefore succeed, and I will vary the enforcement notices by changing the compliance periods to 4 months.

Conclusion

22. For the reasons given above, I conclude that the appeals on ground (a) fail but that the appeals on ground (g) succeed. I shall uphold the enforcement notices with corrections and variations and refuse to grant planning permission on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

M Ollerenshaw

INSPECTOR