



Appeal Decision

Site visit made on 7 October 2025

by **Richard S Jones BA (Hons), BTP, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 November 2025

Appeal Ref: APP/W1905/C/23/3327435

Land at and adjacent to 124 Stortford Road, Hoddesdon, Hertfordshire EN11 0AW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr and Mrs Poitr Sykala against an enforcement notice issued by Broxbourne Borough Council.
 - The notice was issued on 5 July 2023.
 - The breach of planning control as alleged in the notice is without planning permission the:
 - erection of ground floor side extension not in accordance with approved plans and outside of the site boundary;
 - erection of a first floor side extensions [sic] with flat roof finished with metal panelling;
 - erection of front extension to garage, porch and canopy to front elevation;
 - erection of raised patio in the rear garden;
 - erection of a wooden pergola to rear of property;
 - erection of fence over 2 metres in height in rear garden.
 - The requirements of the notice are to:
 - (i) Remove the first floor side extension
 - (ii) Remove the ground floor side and rear extension in its entirety
 - (iii) Remove the canopy and pillars from the front elevation and amend the extension to the garage and canopy to as approved under application 07/20/0217/HF
 - (iv) Remove the raised patio to the rear of the dwelling
 - (v) Remove the wooden pergola in the rear garden
 - (vi) Reduce the height of boundary treatments in the rear garden to not more than 2m when measured from natural ground level
 - (vii) Remove any resultant debris from the land
 - The periods for compliance with the requirements are one month for steps (iv) (v) and (vi), two months for steps (i) and (iii), three months for step (ii) and four months for step (vii).
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (d), (f) 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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Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - Deleting the first bullet point in section 3 and substituting it with “erection of ground floor side extension not in accordance with the approved plans of planning permission reference 07/20/0217/HF”.
 - Deleting the word “extensions” in the second bullet point in section 3 and substituting it with the word “extension”.
 - Deleting the third bullet point in section 3 and substituting it with “erection of forward projection to the ground floor side extension and erection of front canopy incorporating projecting porch (including pillars).”
 - Deleting the word “pergola” in the fifth bullet point in section 3 and its substitution with the word “pergoda”.

- Adding the words “along the boundary to No 126 Stortford Road” to the final bullet point in section 3.
 - Deleting requirement (ii) in section 5 and substituting it with “Remove the ground floor side extension in its entirety OR amend the ground floor side extension to accord with the approved plans of planning permission reference 07/20/0217/HF”.
 - Deleting requirement (iii) in section 5 and substituting it with “Remove the forward projection to the ground floor side extension and front canopy incorporating projecting porch (including pillars), OR, if the ground floor side extension is amended to accord with the approved plans of planning permission reference 07/20/0217/HF as per the option in requirement (ii), then, remove the front canopy incorporating projecting porch (including pillars) and amend the forward projection to the ground floor side extension and the front porch to accord with the approved plans of planning permission 07/20/0217/HF”.
 - Deleting the word “pergola” in the requirement (v) in section 5 and its substitution with the word “pergoda”.
 - Adding the words “arising from compliance with requirements (i) to (vi)” to requirement (vii) in section 5.
 - Deleting the times for compliance in section 6 and their substitution with “The time for compliance with the requirements is nine months from the date this Notice takes effect”.
2. Subject to the corrections and variation, the appeal is allowed insofar as it relates to the erection of the raised patio in the rear garden and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the raised patio in the rear garden, on land at and adjacent to 124 Stortford Road, Hoddesdon, Hertfordshire EN11 0AW.
3. The appeal is dismissed and the enforcement notice is upheld as corrected and varied insofar as it relates to the erection of ground floor side extension not in accordance with the approved plans of planning permission reference 07/20/0217/HF, the erection of a first floor side extension with flat roof finished with metal panelling, the erection of forward projection to the ground floor side extension and erection of front canopy incorporating projecting porch, the erection of a wooden pergoda to rear of property, and erection of fence over 2 metres in height in rear garden along the boundary to No 126 Stortford Road. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended in respect of the erection of ground floor side extension not in accordance with the approved plans of planning permission reference 07/20/0217/HF, the erection of a first floor side extension with flat roof finished with metal panelling, the erection of forward projection to the ground floor side extension and erection of front canopy incorporating projecting porch, the erection of a wooden pergoda to rear of property, and erection of fence over 2 metres in height in rear garden along the boundary to No 126 Stortford Road, on land at and adjacent to 124 Stortford Road, Hoddesdon, Hertfordshire EN11 0AW.

Preliminary Matters and Background

4. Planning permission was granted in April 2020 for a single storey rear and side extension and front extension to garage at the appeal property (ref: 07/20/0217/HF).
5. The Council says that following investigation of a complaint in December 2022, it found that the development was not being carried out in accordance with the approved drawings. Following contact with the appellants, a planning application¹ was submitted in an attempt to regularise the development as built (as well as for additional development), but the application was deemed to be invalid by the Council. The appellants raise concern over the Council's actions in that regard and dispute the validity issues cited. However, those are matters between the appellants and the Council, rather than for this appeal, which is made against the enforcement notice.
6. Nevertheless, I have before me a ground (a) appeal which requires assessment of whether planning permission should be granted for what is alleged in the notice. For the avoidance of any doubt, that does not include any proposed additional development forming part of the application deemed to be invalid, the acceptability of which is a matter for the Council.
7. For legal grounds of appeal (b) and (d), the onus lies with the appellants to make their case on the balance of probabilities.

The Enforcement Notice

8. Part of the alleged breach refers to the "erection of a first floor side extensions...". That is clearly a typo and should refer to extension in the singular rather than the plural.
9. The enforcement notice refers to a wooden pergola in the rear garden. Given that it had a solid fixed roof, that would be more accurately described as a pergoda.
10. The final part of the breach refers to the "erection of fence over 2 metres in height in rear garden". Given the height reference, that is likely to relate to the fence erected along the boundary to No 126 Stortford Road. Indeed, that corresponds with the submissions made by the parties on that aspect of the allegation. Moreover, the boundary treatment to No 122 Stortford Road appears likely to have been erected by the occupiers of that property, given that it matches the fencing on the other side of that garden. To avoid any ambiguity, the allegation should therefore be corrected to refer to the fencing along the boundary to No 126.
11. I am satisfied that I am able to make the above corrections without injustice to any party, under the powers transferred to me by s176(1)(a) of the 1990 Act.
12. By the time of my site visit, the first floor side extension had been removed and so too had the wooden pergoda. Nevertheless, s181(1) of the 1990 Act provides that compliance with any of the requirements contained in an enforcement notice shall not discharge the notice. Under s181(3), if any development is carried out on land by way of reinstating or restoring buildings or works which have been altered in compliance with an enforcement notice, the notice shall be deemed to apply to the buildings or works as it applied before they were reinstated or restored. The

¹ Ref: 07/23/0161/HF

requirements of an enforcement notice thus have an enduring effect. If it is complied with but there is a later breach of the requirements, s181(1) and (3) mean that remains enforceable under s179.

The Appeal on Ground (b)

13. A ground (b) appeal is that the breach of control alleged in the enforcement notice has not occurred as a matter of fact.
14. The appellants' case on this ground appears to relate solely to the alleged erection of a ground floor side extension outside of the site boundary. The appellants assert that it is incorrect, in that the ground floor extension has not been built on neighbouring land, and that requests for a site visit and details of the Council's measurements were not responded to. The neighbour of the property purportedly affected disagrees and argues, as per the Council, that the works have created a building over the boundary line. The neighbour also refers to purported criminal damage arising.
15. However, a dispute as to whether or not the extension has been built on land outside the boundary of the site is a civil matter between the relevant parties under trespass law, rather than through an appeal made under s174 of the 1990 Act. Indeed, an applicant does not have to own a site to seek planning permission for it and allowing the extension would not negate or supersede any private legal rights relating to land ownership.
16. The allegation should therefore be corrected by deleting the words "and outside the site boundary", not because that has or hasn't occurred in ground (b) terms, but because that in itself is not an act of development and it is beyond my remit to make a judgement as to whether there has been an encroachment onto the neighbouring property. If I were to leave it as part of the allegation, success or failure under ground (b) would imply that I am making a judgement on that matter, which is not the case.
17. There appears to be no dispute that any of the other matters alleged in the notice have not occurred. Indeed, the Council's site photographs from 2023 show a first floor side extension, front extension to garage, porch, canopy to front elevation, a raised patio, wooden pergola and rear boundary fencing.
18. The appeal on ground (b) fails.

The Appeal on Ground (d)

19. Ground (d) is that, on the date that the enforcement notice was issued, it was too late for the Council to take enforcement action.
20. For operational development, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed². That equates to a material date of 5 July 2019 in this case.
21. Part of the allegation (as corrected) includes the erection of a fence over 2 metres in height in the rear garden along the boundary to No 126. As part of their ground (a) case, the appellants refer to fences being high in places but being "pre-existing,

² S171B(1) of the 1990 Act prior to the recent amendments which do not apply where the operations were substantially completed before 25 April 2024

due to the 900mm fall away from the house”. That could be construed as a ground (d) submission.

22. Whilst the Council's site photographs from 2020 show a timber boundary fence in place, the photographs from the neighbouring property show an additional, significantly higher boundary treatment erected adjacent to that fence, within the appeal site. As that higher fence had clearly not been erected by the time of the Council's visit in 2020, it cannot be immune from enforcement action, given that the material date is 5 July 2019.
23. The appellants' photographs include an annotation “old sheed [sic] – existing pergola”, which again could be construed as a ground (d) appeal. However, even if broadly in the same position, the shed shown is clearly an entirely different structure to the pergola subject to the enforcement notice, being fully enclosed on all sides and set down at a lower level.
24. The ground (d) appeal specifically made by the appellants is:
“Requested withdrawal of notice to enable a site visit and consultation to resolve boundary issues and therefore the validity of the planning application is maintained. Not agreed to. See letter of reply dated 27 July 2023 Ref. Ms L Wight.”
25. That submission is not relevant to this ground of appeal, and the appellants do not show that any of the other operational development listed in the enforcement notice was substantially complete on 5 July 2019, so as to achieve immunity from enforcement action through the passage of time. The Council on the other hand, has produced photographic evidence from 2020 which shows that the ground floor side extension, the first floor side extension, the forward projection to the ground floor side extension, the front canopy incorporating projecting porch and raised patio, were not in place at that time.
26. The appeal on ground (d) must fail.

The Appeal on Ground (a)

Main Issues

27. The main issues are the effect of the developments on the character and appearance of the area and the living conditions of neighbouring residents, with particular regard to outlook and privacy.

Reasons

Character and appearance

28. This side of Stortford Road is characterised by what originally would have been similarly designed, hipped roof, semi-detached dwellings with two storey bay windows.
29. The Council's photographs from 2023 show the first floor side extension in place, prominently positioned in line with the main front elevation and awkwardly set in from the side of the ground floor extension. It had no visual articulation, such as a window or other notable architectural feature, and would have appeared as a very poor form of development, paying little or no regard to the form and design of the original dwelling.

30. Indeed, its moderately sloping mono-pitched roof with contrasting materials would have been seen above a flat roof ground floor extension, alongside the hipped main roof and a more steeply sloping mono-pitch roof running across the full width of the house between ground and first floor level, with central projecting gable. The result would have been a visually jarring, mismatch of roofing styles and unacceptable cumulative harm to the architectural composition of the building. If there was uncharacteristic sheet metal panelling to the side elevation, that would have compounded the degree of harm arising.
31. Significant harm also arises from the expanse of roof/canopy which runs across the full width of the dwelling. Although its general proportions match the roof of the extended form to the ground floor frontage of the adjoining property, the canopy is finished with a bright, and highly contrasting red tile that appears stark and unduly obvious in the street scene.
32. Many of the properties in this part of Stortford Road have front porch extensions, but none that I saw appeared to project as far forward as that at the appeal property. The largely uncharacteristic projecting gable and the highly contrasting roof tiles exacerbate its prominence on the principal elevation and its visual intrusion into the street scene.
33. Even if part of the ground floor side extension falls outside of the site boundary, it does not appear to be significantly different to that approved by the Council, save for the roof of the front projection. However, it is that element which is presented to the street scene and which dominates the appearance of the side extension as it projects forward of the principal elevation with its relatively large expanse of roofing in highly contrasting red tiles.
34. I note the Council's concerns over other materials and that they are not sympathetic to the dwelling and locality, but by the time of my site visit the render on the front had been painted to match the colour of the rest of the front elevation, whilst the side had been painted white.
35. It is evident from the photographs of the pre-existing rear pergola, that it was a relatively large structure which would have appeared as an unsightly form of development when seen from the upper floors of neighbouring properties, due in particular to its rudimentary roof covering and makeshift appearance.
36. The raised patio has little effect beyond the boundaries of the site and does not look out of place. Indeed, the properties on either side also have raised patios. Whilst that at the appeal site appears to be higher, the difference does not translate to perceptible harm.
37. The fencing along the boundary to No 126 appears excessively high and visually imposing within a domestic garden setting. Because of its height and makeshift appearance on its rear side, it will appear overly dominant and visually intrusive when viewed from the garden of No 126, as it extends above the height of the original fencing.
38. Bringing the above together, I find that the ground floor side extension would be acceptable were it not for the roof of the front projection. However, that element is not physically severable. The acceptable part of the breach is therefore restricted to the raised patio, which does not result in unacceptable harm to the character and appearance of the area and does not conflict with Broxbourne Local Plan June

2020 (LP) Policies DSC1 and DSC2 and the Borough-Wide Supplementary Planning Guidance. Those state, amongst other things, that extensions/alterations to existing dwellings must ensure that the scale, design and external appearance of the extension/alteration do not unduly impact upon the parent building and wider setting.

39. However, for the reasons explained, the projection to the ground floor side extension, the pre-existing first floor side extension, rear wooden pergoda and rear boundary fence, result, or would result (if reinstated), in unacceptable harm to the character and appearance of the area, contrary to LP Policies DSC1 and DSC2 and the Borough-Wide Supplementary Planning Guidance.

Living conditions

40. Given its height, length and siting along the boundary to No 126, at raised patio level, the pergoda would have likely amounted to a visually imposing and unduly overbearing feature when viewed from the adjacent patio of that neighbouring property. As noted, the pergoda had been removed by the time of my site visit but the excessively high solid fencing on which it sat, remains. That extends beyond the depth of the raised patio area so would appear particularly dominant and overbearing from the neighbouring garden at No 126. Given its height, length and its southwest orientation, the fencing is also very likely to result in overshadowing and loss of light in that neighbouring garden space.
41. The Council's concern over the raised rear patio is that its use is likely to have an adverse effect on neighbours through overlooking. However, the properties on either side also have patios raised above the main garden level and whilst that at No 124 may be a bit higher, the effects of that difference are unlikely to be material with appropriate screening.
42. The existing fencing along the boundary to No 126 precludes any overlooking from the raised patio area, but it is excessively high, for the reasons explained. A lower fence, such as that on the other side boundary to No 122, would strike a reasonable balance between protecting privacy levels from the raised patio and avoiding undue harm to the outlook from the neighbouring patio at No 126.
43. The Council's photographs of the pre-existing first floor side extension shows that it was set in from the outer edge of the ground floor extension such that it would not have resulted in an unacceptably overbearing effect on the occupants of No 126. The photographs also show that there were no side windows which could have resulted in loss of privacy. It is unclear whether there was a rear facing window but even if there was, it would likely be acceptable given the existing levels of mutual overlooking which already occurs in this suburban location.
44. It is unlikely that the single storey side extension will materially affect the occupants of No 126 in terms of light and privacy, beyond that which has already been approved.
45. Nevertheless, I find that the fencing does, and the pergoda would, result in unacceptable harm to the living conditions of the neighbouring occupants of No 126, contrary to LP Policy EQ1 and the Borough-Wide Supplementary Planning Guidance. Those state, amongst other things, that all proposals must avoid detrimental impacts on the amenities enjoyed by the occupiers of neighbouring properties.

Other Matters

46. I sympathise with the neighbours worry over the effects of the building materials used on his child's medical condition. However, I have little before me to show that the purported use of ICF is likely to aggravate that condition.
47. I appreciate that the appellants would likely need to enter the neighbouring property to carry out maintenance work to the side elevation of the ground floor extension, but that is not an unusual or unacceptable arrangement.
48. The appellants state that the height of the boundary fence was increased on the advice of the police following alleged intimidation from the neighbour. In any event the increased height of the fence results in unacceptable harms for the reasons explained and if permitted, those harms would endure beyond any change in neighbours.

The Appeal on Ground (f)

49. An appeal on ground (f) is that the requirements of the enforcement notice are excessive to remedy the breach of planning control or the injury to amenity caused by the breach.
50. Having regard to the individual breaches of planning control (as corrected) and the corresponding requirements, the purpose of the notice is evidently to remedy the breach of planning control. The exception to that is requirement (vi), which requires the height of the boundary treatment to be reduced, rather than for its complete removal. That is consistent with an intention to remedy the injury to amenity.
51. The first part of the uncorrected matters constituting the breach of planning control is the erection of a ground floor side extension not in accordance with the approved plans and outside the site boundary. The appellant argues that the corresponding requirement (ii) to demolish the whole of the side and back extensions exceeds what is necessary, and suggests the extensions are on neighbouring land, which they say is incorrect.
52. As explained, whether the extension encroaches onto land outside of the appeal site is not a matter for this appeal and the allegation has been corrected to remove reference to it. Nevertheless, requirement (ii) is excessive on two counts for the purposes of remedying the breach of planning control.
53. Firstly, the requirement includes the rear extension, whereas the breach does not. Although the side and rear extensions may amount to a single act of development, wrapping around the ground floor of the original dwelling, to correct the breach by also referring to the rear extension would result in injustice to the appellant as it would expand the scope of the notice. The requirement should therefore be corrected by deleting reference to the rear extension.
54. Secondly, to logically follow from the corrected allegation, the requirement should give the appellants the choice to either amend the ground floor side extension to accord with the approved plans, or to remove it.
55. The Council acknowledge that the site benefits from planning permission to extend the dwelling but in its view the permission cannot be implemented in full while the unauthorised extensions remain in situ, and that by removing the extensions, the

appellants will then be able to implement the extensions in accordance with that approved. However, given the similarities to what was approved, it is excessive to require the side extension to first be removed in its entirety. How the appellants arrive at the end position of remedying the breach will be a matter for them. For clarity, both the allegation and requirement should specifically refer to the planning permission reference.

56. The third part of the breach of planning control is the erection of front extension to garage, porch and canopy to front elevation. Corresponding requirement (iii) is to remove the canopy and pillars from the front elevation and amend the extension to the garage and canopy to that approved.
57. I appreciate that the description of development for that permission is “Single storey rear and side extension and front extension to garage”, but to incorporate that wording into the enforcement notice is confusing and implies that the garage was pre-existing. Rather, the existing plans from that permission, and the Council’s photographs from 2020, show that what was previously in place was nothing more than a car port.
58. In effect, what was approved was a continuation of the side extension, projecting forward of the principal elevation and returning across the same to meet with the pre-existing porch (rather than a discreet front extension to a garage). That amounts to a single, inseverable act of development.
59. Consequently, if requirement (ii) was not corrected to give the appellants the option to amend the side extension as approved, then requirement (iii) would require the appellants to extend something that wouldn’t exist. Or to put it another way, allow the part of the garage to be retained in isolation where it projects forward of the main front elevation, so long as it accords with the approved plans.
60. Moreover, it is not possible to “amend the extension to the garage and canopy” to that approved because those approved drawings do not even show a canopy on the front elevation. What is shown is a mono-pitched roof over the garage linking into the roof of a pre-existing porch. Other difficulties arise because the wording of the requirement does not logically follow from the corresponding part of the breach.
61. The breach should therefore be corrected to refer to the forward projection of the ground floor side extension and erection of front canopy incorporating projecting porch. It logically follows that the corresponding requirement should also be corrected to require the removal of the forward projection to the ground floor side extension and front canopy incorporating projecting porch (including pillars) and to amend the forward projection to the ground floor side extension and the front porch to that shown on the approved plans under application 07/20/0217/HF.
62. That would allow the whole of the side and front elevation to be amended to accord with that approved. Nevertheless, as the appellants may not wish to amend the dwelling to accord with that permission, the requirement should include the option just to remove the elements described, however unlikely that is.
63. Requirement (vi) is to reduce the height of boundary treatments in the rear garden to not more than 2m when measured from natural ground level, whereas the breach is the erection of fence over 2m in height in rear garden. The former implies plural while the latter is singular. To logically follow from the corrected

breach, the requirement should be to reduce the height of the fence in the rear garden along the boundary to No 126 to not more than 2m above ground level. The reference to ground level, rather than natural ground level is consistent with the wording of Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

- 64. For clarity, requirement (vii) should also be corrected to refer to the removal of any debris arising from compliance with the preceding requirements.
- 65. The ground (f) appeal succeeds to the extent explained.

The Appeal on Ground (g)

- 66. The ground (g) appeal is that the periods specified in the notice fall short of what should reasonably be allowed. The appellants case under this ground refers to 28 days leaving no time available to them.
- 67. However, that appears to be confusing the periods for compliance with the requirement of s172(3)(b) of the 1990 Act, that the enforcement notice is served not less than 28 days before it is to take effect, in order to give the recipients time to make an appeal under s174 (or to make an application for judicial review).
- 68. The actual periods for complying with the requirements are one month for steps (iv) (v) and (vi), two months for steps (i) and (iii), three months for step (ii) and four months for step (vii).
- 69. Even though the first floor side extension and rear pergola have already been removed, the remaining requirements are likely to involve tendering, instructing and scheduling builders, as well as the time to actually carry out potentially significant demolition and alteration work. Three months to carry out the substantive part of those requirements is wholly inadequate.
- 70. A period of nine months would strike a reasonable and proportionate balance between any difficulties and disruption the appellants may encounter, and the public interest in this case. It would also allow the appellants sufficient time to prepare and submit a planning application, with a view to severing acceptable elements and potentially avoiding abortive works.
- 71. The appeal on ground (g) succeeds to that extent.

Conclusion

- 72. S177(1) of the 1990 Act provides that planning permission may be granted 'in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates', so I am able to make a split decision on ground (a) in respect of part of the matters which are clearly severable.
- 73. For the reasons explained above, I have found the raised patio to be acceptable. As that is clearly a distinct and severable operation, I will allow the appeal insofar as it relates to the raised patio to the rear of the dwelling and grant planning permission for the same. The Council does not suggest any conditions be imposed for that part of the breach and I consider none are necessary.
- 74. It does not follow that I should correct the notice to delete the requirements relating to the raised patio because s180 of the 1990 Act provides that the requirements of

the notice will cease to have effect so far as they are inconsistent with the planning permission.

75. Although I have also found the ground floor side extension to be largely acceptable, that links into the forward projection with its unacceptable roof and connecting canopy. Consequently, I am unable to allow the appeal, insofar as it relates to the side extension, as it is not clearly severable from those unacceptable parts.
76. For the reasons explained, I have found the first floor side extension, the forward projection to the ground floor side extension and erection of front canopy incorporating projecting porch, rear wooden pergola and fence over 2m high in the rear garden to result in unacceptable harm to the character and appearance of the area and/or unacceptable harm to the living conditions of neighbouring occupants. I will uphold the notice with corrections and a variation and refuse to grant planning permission in respect of those matters.
77. As the parties have had opportunity to make representation on the merits of the various parts of the breach of planning control, I am satisfied that no injustice will arise from me issuing a split decision.
78. I therefore conclude that the appeal should be allowed in part and dismissed in part.

Richard S Jones

INSPECTOR