



Appeal Decision

Site visit made on 8 September 2025

by **Chris Baxter BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21st November 2025

Appeal Ref: APP/Q4625/C/25/3365089

2 Coton Grove, Solihull Lodge, Solihull B90 1BS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act).
 - The appeal is made by Mr and Mrs Farhan Shaikh against an enforcement notice issued by Solihull Metropolitan Borough Council.
 - The enforcement notice was issued on 2 April 2025.
 - The breach of planning control as alleged in the notice is failure to comply with condition imposed on a planning permission ref PL/2020/00008/MINFHO.
 - The development to which the permission relates is: Contrary to planning permission, alterations and extensions to dwelling in breach of Condition 1 of PP ref: PL/2020/00008/MINFHO for a "Single storey rear and double storey side extension with front garage extension" (including the conversion of an existing roof void). The specific breach comprises the erection of a loft conversion with a rear dormer extending above the original roof ridge, refused by retrospective application ref: PL/2021/01795/MINFHO.
 - The condition in question is No 1.
 - The notice alleges that the condition has not been complied with in that a loft extension with a rear dormer extending above the original roof ridge has been erected.
 - The requirements of the notice are to:
 - (i) Demolish and remove the unauthorised dormer and to ensure the finished roof is returned to its previous condition, size, design and appearance as it was before the breach commenced; or,
 - (ii) Undertake works to remove the unauthorised rear dormer extension, and ensure the finished roof fully accords with the development approved under planning permission PL/2020/00008/MINFHO.
- AND
- (iii) Remove all materials created by the taking of step (i) and (ii) above from the land.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f), (g) of the Act. 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.

Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - The deletion of paragraph 3 and substitute with:

"3. THE ALLEGED BREACH OF PLANNING CONTROL

Without planning permission, the erection of a flat roof dormer to the rear slope of the land."
 - The deletion of "6" from paragraph 6 and substitute with "9" as the period for compliance.

2. Subject to the corrections and variations, 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 Act.

Preliminary Matters

3. Section 176(1) of the Act provides a wide ranging power to correct or vary the terms of an enforcement notice provided that it would not result in injustice to the parties.
4. The enforcement notice described the breach of planning control as a failure to comply with a condition imposed on planning permission PL/2020/00008/MINFHO for a single storey rear and double storey side extension with front garage extension. Where a condition is imposed on a grant of planning permission providing that a development should be carried out in accordance with the approved plans, and the development is not built in accordance with those plans, there will be a breach of planning control consisting of a breach of condition if there are minor deviations from the approved plans. In this instance, given a rear dormer extension was not on the approved plans or in the description of development, this would be a substantial deviation and therefore the rear dormer extension would be development without planning permission and not a breach of condition. This matter was referred to the main parties and the Council agreed that it was not a breach of condition and subsequently suggested a correction to section 3 of the notice with the allegation relating to development without planning permission. The appellants raised no objection to this correction and on this basis I do not consider there has been any prejudice to the parties. The notice has been corrected in this regard.
5. The enforcement notice does not include a date of issue however, the accompanying letter with the enforcement notice is dated 2 April 2025. The appellant is aware of this date as the Council's accompanying letter was submitted by the appellant. I am satisfied that the parties have not been unduly prejudiced on this matter and the appeal can be progressed.
6. Given the extent of the corrections and variations, I am satisfied that no injustice to the appellant or the Council would arise by me correcting and varying the notice in terms I have set out in paragraph one above. I have therefore done so using the powers available to me under Section 176(1) of the Act.

Appeal on ground (d)

7. In order for an appeal on ground (d) to succeed it has to be shown that at the time the notice was issued it was too late for enforcement action to be taken. The test on the evidence is on the balance of probability.
8. Section 171B(1) of the Act provides that no enforcement may be taken in respect of any unauthorised operational development after the end of the period of four years. The appellant claims that the dormer extension was substantially complete before the 2 April 2021, with the walls and roof complete, as well as guttering and fascias in place and the structure been fitted out internally except for decoration. Further submitted evidence includes a photograph dated 30 March 2021 and a letter from the builders.

9. The photograph dated 30 March 2021 shows the walls and roof completed although the windows are not installed. The letter from the builder states that the dormer extension was substantially complete including internal fit out, by 30 March 2021, also confirming that the windows were later installed on 21 April 2021, with the delay on the installation due to covid restrictions.
10. The installation of the windows is a crucial factor in my determination of when the dormer extension was substantially complete. Whilst the walls and roof of the dormer extension were in place and the internal arrangement had been “fitted out”. The structure itself could not have been used by the residents for any usual residential activities expected of a dwellinghouse, given the windows had not been installed. The dormer extension was therefore not substantially complete until the windows were installed on 21 April 2021.
11. The appellant has provided the Oxford English Dictionary definition of the word “substantial”, nevertheless, given my comments above, primarily the windows not being installed, the dormer extension was not substantially complete at or before 2 April 2021.
12. As a matter of fact and degree, and on the balance of probability, the alleged development was not in place more than four years before the notice was issued and it was not too late for the Council to take enforcement action on these matters.
13. The appeal on ground (d) therefore fails.

Appeal on ground (a)

14. This ground of appeal is that planning permission should be granted for the matters alleged in the notice.

Main issue

15. The main issue is the effect of the rear dormer extension on the character and appearance of the surrounding area.

Reasons

16. The area surrounding the appeal site is characterised predominantly by residential properties of mixed styles and design. Many properties in the area have been extended including the addition of dormer extensions with the majority being of modest scale and design. It is this mixed built form with sensitive additions that contribute positively to the character of the area.
17. The rear dormer extension is a large dominating structure that covers the majority of the rear roof slope. The style of properties in the area is mixed including in respect of fenestration and materials, nevertheless, the height, scale and massing of the dormer extension is excessive and creates a structure that is overbearing on the surrounding area, having a detrimental effect on the character and appearance of the nearby locality.
18. The dormer extension is screened from various public viewpoints, however, the structure is visually prominent when viewed from the properties and gardens to the rear of the appeal site. Whilst there are some trees and vegetation to the rear of the appeal property, they do not screen the development entirely. The design of the dormer extension has the height of the structure extending above the ridge line

of the two storey side extension. This design feature appears awkward and jarring, and is highly prominent from views to the front of the property which therefore detracts from the appearance of the appeal property and has an adverse effect on the character of the area.

19. My attention has been drawn to various extensions and additions in the area, including a rear dormer at 4 High Street (No 4). I do not consider this dormer at No 4 to be directly comparable to the appeal dormer extension, particularly with regards to location and effect on character at the appeal site. Other dormer extensions visible in the surrounding area are mostly modest in scale and are not reflective of the large expanse of development of the appeal dormer extension.
20. The rear dormer extension subject of this appeal, due to its height, scale, position and massing, is an incongruous structure that is harmful to the character and appearance of the surrounding area. The rear dormer extension does not accord with Policy 15 of the Solihull Local Plan and the Solihull House Extension Guidelines Supplementary Planning Document which seeks development to conserve and enhance local character, distinctiveness and streetscape quality.

Conclusion on ground (a)

21. The development would conflict with the development plan as a whole and there are no other considerations, including the provisions of the National Planning Policy Framework, which outweigh this finding.
22. For the reasons given above, I conclude that the appeal should be dismissed and the appeal fails on ground (a).

Appeal on ground (f)

23. An appeal on ground (f) is that the requirements of the notice exceeds what is necessary in order to remedy the breach of planning control or, as the case may be, the injury to amenity that is caused by the breach. In this case the requirements are to demolish and remove the dormer extension and return to its previous condition before the breach or to remove the dormer extension and ensure the finished roof complies with development under permission PL/2020/00008/MINFHO.
24. The appellants argue that the requirements should be amended to allow alterations to be made to the dormer extension so it complies with Class B, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
25. The GPDO however does not grant retrospective planning permission. Varying the requirements of the notice to alter the dormer extension in line with permitted development rights would not serve to remedy the breach of planning control. The dormer extension is unlawful as a whole, not just the parts that do not comply with the permitted development right limits.
26. Accordingly, I conclude that the notice requirements are not excessive and the appeal on ground (f) fails.

Appeal on ground (g)

27. Ground (g) is that the period for compliance with the notice falls short of what is reasonable. In this notice the time to comply with the requirements is six months. The appellant seeks a time period of 12 months in which to comply with the requirements of the notice.
28. The appellant case for ground (g) is that the compliance period is too short and would put them in financial hardship, along with the availability of builders. In light of these circumstances, I consider six months is not a reasonable time for compliance. A period of 12 months, given the extent of work involved, would be excessive and therefore on balance, I consider a period of nine months would be more reasonable.
29. The appeal on ground (g) therefore succeeds to this limited extent and I have varied the notice accordingly.

Conclusion

30. For the reasons given above, I conclude that the appeal should fail on grounds (d), (a) and (f), and succeed on ground (g). Subject to the corrections and variations of the enforcement notice, as detailed in paragraph one, the appeal is dismissed and the enforcement notice should be upheld.

Chris Baxter

INSPECTOR