



Appeal Decisions

Site visit made on 6 January 2026

by **R Merrett BSc(Hons), DipTP, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 February 2026

Appeal A Ref: APP/W4705/C/25/3363498

Appeal B Ref: APP/W4705/C/25/3363499

Land at 21 Nab Wood Drive, Shipley BD18 4HP

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeals are made by Mr Gaffar Ahmed (Appeal A) and Mrs Shazia Ahmed (Appeal B) against an enforcement notice issued by City of Bradford Metropolitan District Council.
- The notice was issued on 25 February 2025.
- The breach of planning control as alleged in the notice is Without planning permission, the construction of a raised patio on the land and the erection of a wall along the south-west facing (side) boundary of the land, as shown in the attached photographs.
- The requirements of the notice are to i) Demolish the unauthorised raised patio and remove all arising materials from the land, or ii) Reduce the height of the raised patio to a height of no more than 0.3 metres above the original ground level, and; iii) Demolish the unauthorised wall erected along the south-west facing (side) boundary of the land, or; iv) Reduce the height of the wall erected along the south-west facing (side) boundary of the land to a height of 2.0 metres or less from ground level.
- The period for compliance with the requirements is two calendar months.
- The appeals are proceeding on the grounds set out in section 174(2)(a), (b), (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.

Summary of Decision: The appeals succeed in part and permission for that part is granted, but otherwise the appeals fail and the enforcement notice is upheld as varied in the terms set out below in the Formal Decision.

The appeals on grounds (b) and (c)

1. The appeal on ground (b) is that the alleged breach of planning control has not occurred as a matter of fact. The appeal on ground (c) is that there has not been a breach of planning control. An important principle to bear in mind is that these appeal grounds are regarded as legal grounds, in relation to which the onus rests with the appellant to demonstrate their case, on the balance of probability.
2. With regard to the ground (b) appeal, the appellants' arguments concern the lack of specification of any measurements in the notice relating to how the height of alleged developments have been calculated, resulting in the notice being vague. However, it seems to me that this relates to the question of whether there has been a breach of planning control. Accordingly, I deal with these matters as part of my assessment of the ground (c) appeal.
3. It is undisputed that the raised patio and boundary wall have actually been constructed, and I was able to observe these developments at my visit. It follows that the appeals on ground (b) cannot succeed.

4. I turn to the ground (c) appeal. Article 3, Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) is concerned with the enlargement, improvement or other alteration of a dwellinghouse. However, paragraph A.1.(k) confirms that development is not permitted by Class A if, amongst other things, it would consist of the construction of a raised platform (defined elsewhere within the regulations as meaning a platform with a height greater than 0.3 metres).
5. I am in no doubt that the patio constructed is a platform. As to whether it is a 'raised platform' it is necessary to assess the height of the structure, in relation to which it is important to have regard to Article 2(2) of the GPDO. This indicates that height is to be measured from ground level. It states:

"...for the purposes of this paragraph "ground level" means the level of the surface of the ground immediately adjacent to the building or plant or machinery in question or, where the level of the surface of the ground on which it is situated or is to be situated is not uniform, the level of the highest part of the surface of the ground adjacent to it."
6. I acknowledge the appellant states that their garden has a natural slope; also that photographs have been provided showing the rear extension under construction, adjacent to a previously unfinished area, containing rubble, where the patio has now been constructed. However, it is not clear from this information, or from my visit, that the patio would not constitute a raised platform, when having regard to the definition of ground level in Article 2(2). Accordingly, I conclude that the appellant has not discharged the onus of proof to demonstrate that the construction of the patio does not constitute a breach of planning control, on the balance of probability.
7. Article 3, Schedule 2, Part 2, Class A of the GPDO states that the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure constitutes permitted development, subject to various conditions.
8. Paragraph A.1. of Class A goes on to indicate that, with the exception of specific circumstances relating to schools, development is not permitted by Class A if the structure in question is erected or constructed adjacent to a highway used by vehicular traffic and would exceed a height of 1 metre above ground level. In any other case the height of the structure should not exceed 2 metres above ground level, in order to be permitted development.
9. The appellant's case is that the wall targeted by the notice, which runs along the side boundary of the patio with No 23 Nab Wood Drive, is only 1.8 metres in height. However, this measurement relates to the height of the wall from the surface of the patio, rather than ground level. When having regard to the lower level of the appellants' garden, immediately adjacent to the raised patio, and the level of the neighbour's garden, I am not persuaded that the wall has been constructed within its permitted height.
10. Drawing the above considerations together I conclude that the ground (c) appeals fail.

The appeals on ground (a)

Main Issues

11. The ground (a) appeal is that planning permission ought to be granted. The main issues are i) the effect of the patio on the living conditions of neighbouring residents at No 19 Nab Wood Drive, having particular regard to overlooking and ii) the effect of the development on the living conditions of neighbouring residents at No 23 Nab Wood Drive, having particular regard to outlook and overlooking.

Reasons

No 19 Nab Wood Drive

12. No 19 is one of a pair of semi-detached properties. The dwelling and rear garden area are sited at a markedly lower ground level compared to the appeal site. The patio, the subject of the enforcement notice, extends across the entire width of the rear elevation of the dwelling and virtually adjoins the side boundary fence with No 19. It was apparent from my visit that despite some filtering of views due to boundary vegetation, the elevation of the patio allows for significant parts of the neighbours' rear garden, and the conservatory windows, to be overlooked.
13. Even though the appellants may not always use the patio in a way that means they spend lengthy periods close to this boundary, I concur with the Council that there would nevertheless be harm to the privacy of neighbouring residents for proximity reasons. Accordingly, there is conflict with Policy DS5 of the Bradford District Core Strategy 2017 (CS) and with the National Planning Policy Framework (the Framework) insofar as they seek to avoid such impacts.
14. The appellants argue that the raised patio serves important functional and aesthetic purposes. They say the patio facilitates access onto a level area that would otherwise be sloping and uneven, and would thus be impractical and unsafe.
15. However, there is nothing to persuade me that the patio would be an unsafe, impractical or unattractive feature if its surface area were to be constructed at a lower level, albeit that the arrangement of steps to provide access may need to be amended. It follows that these considerations do not outweigh the harm I have identified above.

No 23 Nab Wood Drive

16. No 23 is the adjoining semi-detached dwelling, in relation to the appeal property. It was apparent from my visit that the occupiers of No 23 have a patio which is constructed at a similar level to the appeal site patio, albeit that it does not project as deeply to the rear. Beyond the patio, the lawned rear garden area is at a lower ground level.
17. From my visit it was apparent that the side wall targeted by the notice would be unlikely to appear overbearing, and therefore to harm outlook, when viewed from the rear elevation windows and patio area of the neighbouring dwelling, because of the relative heights of these structures. Furthermore, the length of the wall running adjacent to the neighbour's lawned garden is relatively short. I am also mindful that representations from the neighbours specifically state that the wall is not overbearing, with climbing plants having been placed to help mitigate any

impact. The height of the wall also prevents the neighbouring garden from being overlooked. I conclude the wall does not result in harm to the amenity of neighbouring residents, and accordingly does not result in conflict with Policy DS5 of the CS or with the Framework.

Other Matters

18. I acknowledge concerns have been raised by neighbouring residents concerning the patio leading to increased problems with regard to surface water flooding. However, I have not been provided with evidence to support this position, which does not therefore weigh against the development.

Conclusion on ground (a) appeals

19. I conclude that the proposed patio is in conflict with the Council's development plan. The ground (a) appeals therefore fail in respect of this element of the development.
20. However, I have concluded that the side wall is in keeping with the development plan. The ground (a) appeals therefore succeed in respect of this element of the development. The ground (f) appeals do not therefore fail to be considered insofar as they relate to the side wall.

The appeals on ground (f)

21. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve the purpose. The purposes of an enforcement notice are set out in s173 of the Act and include remedying the breach of planning control (s173 (4) (a)). The Act sets out that the breach may be remedied by making the development comply with the terms of any planning permission granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place.
22. With regard to the alleged patio, the objectives of the notice (in terms of the stricter of the two alternative requirements given) are to secure its removal and therefore to restore the land to its condition before the breach took place. In this regard the purpose of the notice is therefore to remedy the breach of planning control, and as such the requirement cannot be deemed excessive.
23. The appellants' ground (f) appeal is the requirements fail to recognise the level of the patio being set for practical and security reasons. Furthermore, with regard to the Council's alternative requirement to reduce the height of the patio, they say that 0.3 metres is an arbitrary level, which fails to consider natural ground level. The Council has not referred to any survey data. In the appellants' view, the requirements are therefore harsh and disproportionate.
24. I have dealt with the argument regarding the practicality and security of the structure above. The Council's alternative requirement regarding the patio is for it to be reduced to a height of no more than 0.3 metres above the original ground level. In the absence of any further specification, it seems to me that it would be reasonable to interpret this requirement as relating to the difference in level between the surface of the patio and original ground at any point over the surface of the structure. The landowner should have the best knowledge of what that original level was.

25. I appreciate that this may still be a more onerous requirement than what might have been allowed by permitted development considerations. However, I am mindful that the GPDO does not grant retrospective planning permission and therefore a structure cannot be made lawful through being amended to accord with the GPDO. In any event, in the absence of further evidence regarding the original ground level, modifying the structure in line with GPDO requirements would not constitute an 'obvious' alternative, and requiring this to be done would not give the appellants sufficient certainty.
26. I therefore conclude that in this context the requirements are not excessive or disproportionate. The ground (f) appeals fail. Notwithstanding the above, I recognise it may be possible for the appellants to provide evidence to demonstrate the existing patio structure can be constructed / modified in line with GPDO limitations. I therefore consider varying the compliance period, by allowing five months, would allow an opportunity to submit a planning application, for the alterations to be carried out if such an application were to prove successful, and in the alternative to make the necessary arrangements for compliance with the notice. I consider this to be a proportionate response.

Overall Conclusion

27. For the reasons given above I conclude that the appeals should succeed in part only, and I will grant planning permission for part of the matters the subject of the enforcement notice, but otherwise I will uphold the notice, with a variation, and refuse to grant planning permission on the other part.
28. The requirements of the upheld notice will cease to have effect so far as inconsistent with the planning permission which I will grant, by virtue of s180 of the Act. Consequently, the notice ceases to have effect with regard to the erection of a wall along the south-west facing (side) boundary of the land, because this will benefit from planning permission and is therefore lawful for planning purposes.

Formal Decisions

29. It is directed that the enforcement notice is varied at Section 6, by the deletion of the words "Two calendar months" and the substitution of the words "Five calendar months" as the time for compliance.
30. Subject to the variation, the appeals are allowed in part and planning permission is granted on the applications deemed to have been made under section 177(5) of the 1990 Act as amended, for the erection of a wall along the south-west facing (side) boundary of the land at 21 Nab Wood Drive, Shipley BD18 4HP.
31. The appeals are dismissed, and the enforcement notice is upheld, and planning permission is refused in respect of the construction of a raised patio on the land at 21 Nab Wood Drive, Shipley BD18 4HP on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

R. Merrett

INSPECTOR