
Appeal Decision

Site visit made on 3 February 2026

by **M Ollerenshaw BSc (Hons) MTPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27th February 2026

Appeal Ref: APP/M4320/C/24/3358055

Land at 68 Warren Road, Blundellsands, Liverpool, L23 6UG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Sumer Aditya against an enforcement notice issued by Sefton Metropolitan Borough Council.
- The notice was issued on 18 November 2024.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey extension to the side and rear of the property and a garden terrace to the side of the property.
- The requirements of the notice are to:
 1. Demolish the single storey extension from the side and rear of the property and the garden terrace from the side of the property and remove all resultant debris from the property and,
 2. Make good the external walls to the rear and side of the property following the demolition of the extension using materials which are similar in appearance to those used in the external appearance of the existing dwellinghouse.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) 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 appeal is dismissed and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision.

Application for costs

1. An application for costs was made by Mr Sumer Aditya against Sefton Metropolitan Borough Council. This application is the subject of a separate decision.

Background

2. Planning permission (ref. DC/2022/02353) was granted in April 2023 for a single storey extension to the side and rear of the property together with a garden terrace. That scheme essentially sought to extend the existing rear extension to cover over the rear courtyard that had been granted permission in 2004¹. It also included a new single storey side extension and a garden terrace on the side of the rear extension.
3. The development as built does not accord with the plans approved as part of DC/2022/02353 and listed in condition 2 of that permission. The appellant sought to regularise the matter through the submission of a s73 application to vary condition 2 to reflect the updated plans which detail the as built changes. The application was refused on 23 October 2024 on the grounds of harm to the living

¹ Application ref. S/2004/0336

conditions of neighbouring occupiers². The enforcement notice was issued shortly after on 18 November 2024.

The Notice

4. The appellant claims that the notice is a nullity because the requirement to 'make good' the external walls of the property following the demolition of the unauthorised extension would prevent them carrying out the development granted permission under DC/2022/02353 which they say remains extant.
5. A notice is a nullity if it is 'defective on its face', normally by failing to include a vital element or because it contains such conflicting material that it cannot be given legal effect. In this case, the notice clearly identifies the alleged breach, the steps required to remedy it, and the period for compliance. There is no omission of any statutory requirement, nor any internal contradiction that would prevent the notice from operating. The existence of the 2023 permission does not render the notice a nullity. Conflict between the requirements of a notice and a planning permission is a matter to be addressed under the statutory grounds of appeal, usually ground (f), on the basis that the steps exceed what is necessary. Even if the 'make good' requirement would entail re-doing work that would later be removed to carry out the 2023 permission, this concerns the proportionality of the steps, not the validity of the notice. For these reasons I conclude that the notice is not a nullity.

The ground (a) appeal and deemed planning application

6. 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.
7. The main issue in this case is the effect of the development on the living conditions of the neighbouring occupiers of 70 Warren Road.
8. The appeal property is a substantial, detached house which is situated on a large plot and set well back from Warren Road. Notwithstanding the overall spaciousness of the plot, the rear of the appeal property is positioned close to the front of the neighbouring property, No 70. The neighbouring property sits on slightly lower ground than the appeal property.
9. The Council does not contest the appellant's view that DC/2022/02353 is extant and capable of being implemented. I have no reason to find otherwise based on the evidence before me. DC/2022/02353 represents a fallback position against which the unauthorised development should be considered.
10. The principal differences between DC/2022/02353 and the development as built relate to the increased height of the extension; a slight increase to the projection of the side extension; and omission of a pitched roof and its replacement with a flat roof and an atrium. Due to the inclusion of parapet walls the height of the rear extension has increased from 3.7m, as approved, to 4.4m, as built. The comparison elevations plan indicates that the approved side extension was to be 3m high. The Amended Proposed Elevations, Rev F shows it is 3.8m high as built. There have also been marginal increases in the depth and width of the extension.

² Application ref. DC/2024/01387

11. The front elevation of No 70 includes a ground floor window and two first floor windows which look towards the unauthorised development. While the neighbour raises concerns, amongst other things, about loss of privacy, the principal planning harm arises from the increased height of the development rather than overlooking.
12. As set out above, the increased height of the extension is around 0.7m to 0.8m higher than approved under DC/2022/02353. That increase is notable in the context of this site given the proximity of the two properties. The outlook from the neighbour's ground floor window was already affected by the presence of the boundary fence and then the yard wall at the rear of the appeal property. However, the brick walls of the unauthorised extension are considerably higher than these and are only around 6.7m away from the front of No 70 at the closest point. I accept that the neighbour's windows are slightly off set but the appeal development nevertheless looms significantly above the fence and yard wall resulting in an oppressive and overbearing effect on the neighbour's front windows, particularly the ground floor bay window which provides different perspectives of the development.
13. Although the appeal property already affected No 70's outlook, and the development approved under DC/2022/02353 would have an additional impact, the increased size of the as built development, particularly in terms of height, has exacerbated that impact and materially worsened the sense of enclosure and overbearing effect on the neighbour. The fallback position does not therefore provide convincing justification for accepting the unauthorised development.
14. The appellant suggests that the Council's SPD on House Extensions and the BRE guidance 'Site Layout for Planning for Daylight and Sunlight' are not reliable indicators of the effects of the development on the neighbouring property given the orientation of the two properties, and must be applied flexibly in any case. In my view, it is likely that the development does reduce daylight and sunlight to the neighbour's property to some extent, and in this regard I have considered the neighbour's representations which include photographs from their front window showing the sun dropping behind the extension. While these reinforce my findings on the overbearing effect, there is insufficient technical evidence before me to show that the development has given rise to significantly adverse impacts on the neighbour's daylight and sunlight than would result from the approved scheme.
15. For the reasons given, I conclude that the development is harmful to the living conditions of the neighbouring occupiers of 70 Warren Road, in respect of outlook. Accordingly, it conflicts with Policies EQ2 and HC4 of A Local Plan for Sefton (2017) which, amongst other things, require that extensions and alterations do result in a significant reduction in the living conditions of neighbouring residents.

Other matters

16. The appeal building is within Blundellsands Park Conservation Area. S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. I share the Council's view that the development preserves the character and appearance of the Conservation Area.
17. Issues relating to building regulations compliance fall outside the scope of this appeal and cannot influence my decision.

Conclusion on ground (a) and the deemed planning application

18. I conclude that the development is harmful to the living conditions of the occupiers of No 70. It does not accord with the development plan taken as a whole and there are no other material considerations which outweigh this finding. Accordingly, the appeal on ground (a) fails and the deemed planning application will be refused.

The ground (f) appeal

19. An appeal on ground (f) is that the steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections. When an appeal is made on ground (f), it is necessary to understand the purpose of the notice. S173(4) of the 1990 Act sets out the purposes which an enforcement notice may seek to achieve, either wholly or in part. These purposes are either (a) the remedying of the breach of planning control or (b) remedying any injury to amenity which has been caused by the breach.
20. The requirements of the notice are, in summary, to demolish the extension and garden terrace, make good the external walls of the property, and remove all resultant debris. The purpose of the notice is therefore to remedy the breach of planning control.
21. The appellant argues that only the additional height of the extension causes harm and that the requirements of the notice can be varied to require the height to be lowered to bring it into line with the scheme permitted by DC/2022/02353. However, the requirements of the notice cannot be varied to reduce the height of the extension alone, as there have been other unauthorised changes, and the development as a whole is unlawful. A reduction in height would not remedy the breach because the other unauthorised changes would remain.
22. Should the unauthorised development be removed entirely, it is likely in my view that the appellant would wish to erect the extension permitted by DC/2022/02353. This is a realistic fallback position and represents an obvious alternative step that can be achieved with less cost and disruption. Therefore, given that enforcement is intended to be remedial rather than punitive, requiring the development to be entirely removed is excessive. The Council argues that it is not possible to alter the unauthorised extension to accord with DC/2022/02353 because it is larger than approved, and that it is therefore necessary to entirely demolish it. However, I see no reason why remedial works cannot be carried out to bring it into line with the approved scheme.
23. Even though it is likely that the appellant will wish to alter the development so that it accords with DC/2022/02353, they would still have the option to demolish it entirely. In those circumstances the requirement to make good the external walls of the property is not excessive but is necessary and reasonable to ensure a satisfactory appearance to the building.
24. I note the appellant's concerns that the Council's decision to issue an enforcement notice so soon after the refusal of the s73 application was unduly harsh and unnecessary, but this is a matter for the Council, and it does not indicate that the steps required by the notice exceed what is necessary to remedy the breach.
25. For the reasons given, I shall vary the notice to give the appellant the option of altering the development so that it complies with DC/2022/02353, as a reasonable

alternative to complete demolition and removal. That would remedy the breach of planning control in accordance with s173(4)(a) of the Act.

26. Accordingly, the appeal on ground (f) succeeds to this extent.

Conclusion

27. For the reasons given above, I conclude that the appeal should partially succeed on ground (f) only. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the deemed application.

Formal Decision

28. It is directed that the enforcement notice is varied under section 5 of the notice by deleting requirements 1 and 2 and substituting the following:

A

1. Demolish the single storey extension from the side and rear of the property and the garden terrace from the side of the property and remove all resultant debris from the property and,
2. Make good the external walls to the rear and side of the property following the demolition of the extension using materials which are similar in appearance to those used in the external appearance of the existing dwellinghouse.

Or

B

1. Alter the building so that it fully complies with the terms and conditions of planning permission reference DC/2022/02353, approved on 4 April 2023, and remove any excess materials from the land.

29. Subject to this 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.

M Ollerenshaw

INSPECTOR