



Appeal Decisions

Site visit made on 24 February 2026

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 March 2026

Appeal A Ref: APP/C3810/C/23/3335746

Appeal B Ref: APP/C3810/C/23/3335747

Appeal C Ref: APP/C3810/C/23/3335748

Flat 1, 4 Nelson Road, Bognor Regis, West Sussex PO21 2RY

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made by Mr Andrew Miles (Appeal A), Mr Ken Gordon (Appeal B) and Mr Russell Miles (Appeal C) against an enforcement notice issued by Arun District Council.
 - The notice was issued on 8 November 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a front extension.
 - The requirements of the notice are to remove the front extension and all materials and debris associated with the front extension from the land.
 - The periods for compliance with the requirements is three months.
 - The appeals are proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended). Since the prescribed fees have not been paid within the specified period, the appeals on ground (a) and the applications for planning permission deemed to have been made under section 177(5) of the Act have lapsed.
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Decisions: Appeals A, B & C

1. The appeals are allowed on grounds (f) and (g) and it is directed that the enforcement notice be varied by in paragraph 5 after '*land*' inserting '*Alternatively, modify the front extension so it complies with the terms, including conditions and limitations, of the planning permission reference BR/158/PL dated 23 July 2019*' and; in paragraph 6 substituting '*three months*' with '*six months*' as the period for compliance. Subject to these variations the enforcement notice is upheld.

Preliminary Matter

2. No appeal has been brought on ground (a) and the relevant fee has not been paid. Therefore, planning merits considerations cannot form part of my deliberations.

Appeals A, B & C

Ground (f) appeals

3. The ground of appeal is that the requirements of the enforcement notice are excessive.
4. The appeal property contains a two-storey residential building. The notice attacks the erection of a single storey front extension to flat 1, on the ground floor. Planning permission for a front extension to the flat was granted in July 2019.¹
5. An enforcement notice can have the purpose of remedying the breach of planning control, including by restoring the land to its condition before the breach took place, or it can seek to remedy any injury to amenity caused by the breach. The notice states that its purpose is to remedy the breach. This must be the case; by

¹ Council Ref: BR/158/19/PL

removing the extension along with the associated materials and debris to comply with the notice requirements, the property would be restored to its condition before the breach took place. Therefore, the requirements are not excessive; they are proportionate, being the minimum actions necessary to remedy the breach.

6. It is also possible however to remedy the breach by making any development comply with the terms, including conditions and limitations, of any planning permission which has been granted in respect of the land. In the absence of a ground (a) appeal, the permission would have to still be extant and not have subsequently lapsed. No works appear to have commenced pursuant to the 2024 planning permission for a front extension.² As development was required to begin within twelve months, that permission can no longer be extant.
7. The 'as-built' extension deviates from the approved drawings which accompany the 2019 permission, being taller with a parapet wall of different design, having a smaller window in a slightly different position in the front elevation along with a larger roof lantern and being closer to the western boundary. Even so, the differences alone are not conclusive as to whether development was commenced in accordance with the 2019 permission. It is necessary to consider not only the differences between what has been built and the planning permission, but also the significance of the differences. It is not sufficient simply to mark and measure the existence of differences. Similarities and the degree of compliance with the approved drawings are also highly relevant, together with the degree to which what has been built is substantially useable in what was permitted.
8. Complying with the approved drawings would not involve major works to the extension. Neither its width, depth nor the overall footprint are materially in excess of what is shown on the approved drawings. According to the appellants' measurements, the extension is not significantly closer to the western boundary compared to the approved drawings. The Council did not question the accuracy of the appellants' figures and there is no sound reason I should do so. The slight reduction in the distance to the boundary has limited consequences in terms of the impacts of the extension.
9. The majority of the built fabric comprised in the external walls of the extension is capable of being incorporated into the approved scheme. It would not be necessary to demolish or to remove substantial parts of any of the walls. The works to comply with the approved drawings are likely to be fairly modest in scale, being for the most part limited to removing the parapet wall and rebuilding it to the approved height and design, along with installing a smaller roof lantern and a larger window in the front elevation.
10. Building Regulations drawings showing the extension with a taller parapet wall, a larger roof lantern and a roof terrace can have little bearing on this matter. Whether development has been commenced in accordance with a planning permission is an objective test and the developer's intentions are irrelevant.
11. In *Silver v SSCLG & Camden* [2014] EWHC 2729 (Admin), the Court declined to interfere with an Inspector's finding that development had not commenced, what was built having involved numerous material differences from the planning permission. The facts of that case thus differ markedly from in these appeals.
12. Drawing matters together, based on the available evidence and as a matter of fact and degree, I find that development was commenced in accordance with the 2019 permission, which is therefore still extant. In the circumstances, I shall exercise the power in s176(1)(b) of the Act to vary the notice, so that the extension could be modified to comply with the terms of the 2019 permission as an alternative, proportionate remedy to the breach. Enforcement action is intended to be remedial, not punitive. Modifying the extension to comply with the

² Council Ref: BR/67/24/PL

2019 permission would overcome the planning difficulties at less cost and disruption than total demolition. There would be no unconditional grant of planning permission; the extension would be in breach of the notice unless the 2019 permission, including the outstanding conditions, is complied with.

13. The notice would be sufficiently precise as varied. The differences between the as-built extension and the 2019 permission are clear. Since the appellants could have little doubt about what is required to comply with the notice, there would be no uncertainty. The ground (f) appeals therefore succeed to that extent.

Ground (g) appeals

14. The ground of appeal is that the time allowed for complying with the notice requirements is too short.
15. The remedial works to modify the extension would be of relatively modest scale, being a reasonably straightforward task for a suitably experienced building contractor and having a fairly limited duration. Whilst I can sympathise with the occupier of flat 1, one of the appellants, who faces significant health challenges, it is unclear why they would need temporary living accommodation during those works. It should be possible to maintain unrestricted access to the flat and the effect on the internal arrangements would probably be limited. Three months would thus afford the appellants with sufficient time to raise any necessary funds, secure the services of a suitable contractor and for the works to be completed.
16. Nevertheless, I also have to consider the alternative, however unlikely it may seem, of the extension being demolished to remedy the breach. In such an eventuality, there is an increased likelihood of the occupier having to find temporary accommodation for the duration of the works, as the flat interior is likely to be significantly affected. Having regard to the occupier's personal circumstances, searching for and securing suitable temporary accommodation would in all probability lengthen the time which would elapse before the works could commence. Also, the works are likely to take significantly longer to complete given their greater scale and complexity.
17. Therefore, I shall vary the notice to extend the compliance period to six months, to ensure there is sufficient time for complying with the notice, whether the extension is modified or demolished. This falls short of the one-year period sought. However, the lengthened timescale set out above would strike an appropriate balance between remedying the breach as soon as practicable whilst also avoiding, so far as is possible, imposing a disproportionate burden on the appellants. Any longer period on the other hand would do little more than perpetuate the breach. The ground (g) appeals therefore succeed to that extent.

Conclusions: Appeals A, B & C

18. For the reasons given above I conclude that the enforcement notice should be upheld with variations.

Stephen Hawkins

INSPECTOR