



Appeal Decision

Site visit made on 4 February 2026

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2026

Appeal Ref: APP/K0235/C/25/3372991

Top Farm, The Lane, Wyboston, Bedfordshire MK44 3AS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Danny Ward against an enforcement notice issued by Bedford Borough Council.
- The notice was issued on 12 August 2025.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a detached outbuilding on the land (shown edged green on plan 2) forward of the front elevation of the dwellinghouse.
- The requirements of the notice are to:
Either
 - i) Demolish the outbuilding outlined in green on Plan 2 and remove all resultant waste materials from the land
 - OR
 - ii) Erect/modify the outbuilding in accordance with plan approved by appeal (APP/K0235/D/24/3356917) on 24th June 2025 and as shown on drawings SK01-2-2 Rev G and SK01-32 Rev G.
- The periods for compliance with the requirements are:
 - i.) Six months from the date this notice takes effect
 - ii.) Eighteen months from the date this notice takes effect
- The appeal is proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the Town and Country Planning Act 1990 (as amended).

Decision

1. It is directed that the enforcement notice is varied by:
 - At section 6, following 'i.)' the deletion of 'Six' and its substitution with 'Eighteen' as the time for compliance, so that the period for compliance with requirements 'i)' and 'ii)' is 'Eighteen months from the date this notice takes effect'.
2. Subject to the variation above, the appeal is dismissed and the enforcement notice is upheld.

Applications for costs

3. An application for costs has been made by Mr Danny Ward against Bedford Borough Council. This application is the subject of a separate decision.

Preliminary Matters

4. The appellant has raised procedural matters and asserts that the enforcement notice should be quashed because it is not precise and requires works to go beyond the parameters of two separate planning permissions. Concern is also raised regarding the compliance periods. I shall deal with these matters under the grounds of appeal below.

Ground (c)

5. An appeal under ground (c) is made on the basis that the matters stated in the notice do not constitute a breach of planning control. In a legal ground of appeal, the burden of proof is firmly on the appellant, to the civil standard, which is the balance of probabilities. Ground (c) is worded in the present tense, and so the appellant may rely upon matters occurring since the date of issue of the enforcement notice, to show that, at the time of the decision, what was alleged does not amount to a breach of planning control.
6. The appeal building comprises a substantial single storey building, with a roof which is sloped towards either end. There is no suggestion that the building would be granted by the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended). Rather the appellant's case concerns the fact that two planning permissions have been granted in respect of an outbuilding at the appeal site, one on appeal and the other by the Council.
7. Prior to the issue of the enforcement notice, planning permission was granted on appeal, reference APP/K0235/D/24/3356917, for the erection of detached garage (flat roof) subject to a number of conditions, including that the development shall be carried out in accordance with approved plans SK01-2-2 Rev G, SK01-3-2 Rev G. In a Preliminary Matter of that decision letter, it was noted that *'there is an existing garage at the appeal site, in a similar location to where both appeal schemes would be sited. My attention has been drawn to two previous appeal decisions for similar developments. I have referred to these where they are relevant, however, my recommendation is based on the proposals which are subject of the current appeals.'*
8. It is clear that the planning permission granted on appeal was for the development which was proposed, rather than the development which has already been carried out (and which is the subject of this appeal). The outbuilding which has been constructed (and which is the subject of the appeal before me) is significantly different to the approved scheme. The approved building has a smaller footprint, with a different layout and a different roof design, resulting in a smaller bulk. Planning permission for the outbuilding which is before me, is not, in my judgement, granted, either in full or in part, by the aforementioned planning permission granted on appeal.
9. Subsequent to the appeal being allowed and the enforcement notice being issued, the Council granted planning permission for a garage with the same footprint as the appeal building, but with a flat roof, planning permission 25/01342/S73A. That application was made under section 73A, which provides that planning permission which may be granted includes planning permission for development carried out before the date of the application. Planning permission for such development may be granted so as to have effect from the date on which the development was carried out.
10. However, in order to succeed under ground (c), what is alleged must comply with the terms and conditions of a planning permission. The decision notice describes the development as 'Erection of detached garage (**flat roof**)(Development already commenced)' and includes a condition, Condition 1, which requires the development to be carried out in accordance with the plans and documents listed on the notice, unless required otherwise by a separate planning condition of this

permission. The plans identified on the notice are SK01-2H and SK01-3-2H REVISED.

11. While certain elements, such as foundations, walls and layout may be the same, the development approved by that planning permission is significantly different to the development which has been carried out, with a different roof design (not a flat roof) and height. What is alleged in the enforcement notice does not, therefore, comply with the terms and conditions of the planning permission.
12. Thus, for the reasons set out above, I find that the matters stated in the notice constitute a breach of planning control and so the appeal under ground (c) must fail.

Ground (f)

13. An appeal under ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
14. Section 173(4) of the Act sets out the purposes of a notice are (a) remedying the breach by making any development comply with the terms... of any planning permission..., by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or (b) remedying any injury to amenity which has been caused by the breach. The requirements are written in the alternative, giving the appellant the option of demolishing the outbuilding or modifying it in accordance with a planning permission. As such, I consider the purpose of the notice is to remedy the breach.
15. Although planning permission was granted on appeal, APP/K0235/D/24/3356917 for erection of a detached outbuilding (flat roof), as set out above, this did not grant planning permission for the appeal building which is before me. Nevertheless, the enforcement notice gives the appellant the option of modifying the building in accordance with the plan approved on appeal.
16. The fact that requirement i) requires the appellant to demolish the building does not conflict with the aforementioned permission because the appellant has a choice as to which step to carry out. If the appellant modifies the building to accord with the planning permission granted on appeal, they do not have to demolish the outbuilding outlined in green on Plan 2 and remove all resultant waste materials from the land. Retaining the option to demolish is not excessive, it simply gives the appellant that option.
17. As set out above, planning permission has been granted for a garage with the same footprint as the appeal building, but with a flat roof, planning permission 25/01342/S73A. Because that planning permission was granted on 2 September 2025, which was after the enforcement notice was issued, on 12 August 2025, section 180 of the Act will apply, which provides that where, after the service of an enforcement notice, planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.

18. The Council states that, given that another planning permission has been granted since the service of the enforcement notice, it has no objections to the notice being varied to include a third option, allowing the appellant to erect/modify the outbuilding in accordance with the plans approved on 2nd September 2025 and as shown on drawings SK01-2 Rev H and SK01-3-2 Rev H. However, given the provisions of section 180, it is unnecessary for me to vary the notice in this way.
19. The appellant will have the option of modifying the building so that it complies with the approved details, because the notice will cease to have effect so far as inconsistent with that permission, or modifying the building so that it complies with the details approved under appeal APP/K0235/D/24/3356917, by virtue of requirement ii) of the notice. They will also have the option of demolishing the building by virtue of requirement i) of the notice.
20. The requirements will remedy the breach, either by restoring the land to its condition before the breach took place, or by making the development comply with the terms of any planning permission. There are no lesser steps and no obvious alternative that would achieve the purposes of the notice with less cost and disruption. The appeal under ground (f) must therefore fail.

Ground (g)

21. An appeal under ground (g) is made on the basis that any period specified in the notice falls short of what should reasonably be allowed. The enforcement notice gives two periods for compliance, requiring that the building is demolished within six months, or that the outbuilding is modified in accordance with the plan approved by appeal APP/K0235/D/24/3356917, as shown on drawings SK01-2-2 Rev G and SK01-3-2 Rev G within eighteen months.
22. Section 173(9) of the Act states that references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased. Since the two requirements are written in the alternative, having two different compliance periods could lead to uncertainty. For example, if the appellant decides that they wish to demolish the building but does not do so within 6 months of the notice coming into effect, then, by virtue of section 179(1) of the Act, they would be guilty of an offence. However, they would still have time to modify the building to accord with the aforementioned planning permission.
23. The Council accepts that two different compliance periods could result in a technical [sic] breach following the 6 month period for compliance with option i) and states that it has no objection to varying the notice such that both options have an eighteen month compliance period. I agree that the compliance periods should be varied so that they are the same for requirements i) and ii). Since reducing the period for compliance with requirement ii) would make the appellant worse off and therefore cause them injustice, I consider the period for requirement i) should be varied to 18 months, so that both compliance periods are 18 months.
24. It is suggested that the time period for requirement ii) should be 'in line' with permission APP/K0235/D/24/3356917, which includes a condition that the development hereby permitted shall begin not later than 3 years from the date of the decision. However, planning permission was granted on the basis of the proposed plans and is clearly not retrospective, as indicated by the fact that a

condition requiring that the development shall begin not later than 3 years from the date of the decision.

25. Although the appellant has 3 years from the date of the appeal decision to begin the development permitted, this relates to a planning permission for a different development (a smaller building, with a different layout and different roof design, albeit there is some overlap in terms of the location of the two buildings). Enforcement action has been taken against the appeal building because of the harm it causes to the character and appearance of the area, whereas the building granted planning permission on appeal was allowed because it was found that it would have an acceptable effect on the character and appearance of the area.
26. A compliance period of 3 years would mean that the harm to the character and appearance of the area continues for a significant period of time, which is not in the public interest. Given the modest size of the building, I consider eighteen months is likely to be sufficient time for the appellant to comply with the requirements of the notice, whichever they choose, and is reasonable and proportionate. In light of the above, I shall vary the period for compliance with requirement i). The appeal under ground (g) succeeds to that extent.

Conclusion

27. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

M Savage

INSPECTOR