



Appeal Decisions

Site visit made on 14 March 2026

by **A U Ghafoor BSc (Hons) MA MRTPI FCI fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 24th March 2026

Appeal A and B Refs: APP/A2280/C/24/3338789 and 3338790 100 Woodside, Rainham Gillingham ME8 0PW

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the “Act”).
- Appeal A is made by Mr P A Allen and Appeal B by Mrs Tracy Allen against an enforcement notice issued by the Medway Borough Council.
- The enforcement notice was issued on 11 January 2024.
- The breach of planning control as alleged is the construction of a building to the rear of the Land for the purposes of providing an annexe to the main dwellinghouse.
- The requirements of the enforcement notice are to: (1) Demolish the annexe building to the rear of the dwellinghouse in its entirety (2) Remove all resultant debris and associated materials arising from compliance with requirement (1) above, or (3) as an alternative to requirements (1) and (2) carry out the alterations to the annexe building so that it complies in all respects with planning permission reference MC/22/0459 and associated approved plans.
- The period for compliance with the requirements is 3 months.
- Appeal A is proceeding on the grounds set out in section 174(2) (a) and (g) of the Act and Appeal B is made on ground (g).

Decisions

1. It is directed that the enforcement notice be varied in section 6, time for compliance, by the deletion of “three months” and the substitution therefor by the following text: “nine months”. Subject to the variation, the notice is upheld and, in Appeal A, planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Appeal A - ground (a)

2. The terms of the deemed application are directly derived from the allegation. Planning permission is sought for the construction of an annexe building. The **main issue** is the effect of the development on neighbours’ living conditions.
3. No 100 is a detached dwellinghouse with a long rear garden like other properties in this residential area where back-land development is not that uncommon. The single-storey annexe, which the Council say is about 5.6 metres high, 2.5 m eaves and 11 m deep, is located to the rear of the dwelling. Planning permission was initially granted for the construction of a single storey detached annexe subject to conditions. The as-built structure, however, is said to be 10 meters closer to the host dwelling than approved, although its overall design and layout is consistent with the approved scheme. Subsequently, following pre-application advice, a revised scheme was submitted and granted planning permission¹.
4. The appellant sought professional advice throughout the construction phase and the reasons for siting the annexe closer to the dwellinghouse are explained in the written representations. The sequence of events and construction phase are also explained. The appellant considers that the

¹ Council refs ref MC/19/2627 25 November 2019 and MC/22/0459 dated 14 April 2022.

overall design and layout reflect the previously approved schemes, but the as-built structure is sited closer to the host dwelling and is noticeable from adjoining properties, due to its location.

5. Although adjoining properties are not overlooked because the building is single storey and there are no side windows, its bulk and mass have an over-dominant and over-towering effect on its neighbours because of its positioning. Given the overall height of the building and its pitched roof design, the as-built annexe is visually over-bearing especially when seen from adjoining gardens making them less pleasant to enjoy given its proximity to boundaries. In contrast, there are significant differences between the as-built structure and the scheme approved in 2022 given the latter's altered hipped roof design as opposed to its gable-end pitched roof. The former is, in my view, likely to reduce the overall bulk and mass of the annexe. I disagree with the claim that the change would be minimal.
6. On the main issue, I find that the development has a materially harmful effect on neighbours' living conditions and conflicts with the main aims and objectives of policy BNE2 of the Medway Local Plan 2003, which is broadly consistent with guidance found in National Planning Policy framework 135(f).
7. I have given careful thought to submitted representations supporting the appellant and their personal and medical circumstances, but the building is likely to remain long after and its overall height and roof shape has a harmful effect. The annexe remains to be completed internally but compliance with the notice will have financial and human rights implications². This includes interference with private and family life. However, this appeal relates to an unoccupied annexe. Interference must be balanced against the wider public interest in pursuing the legitimate development management aims. There is perceived harm to neighbours' living conditions and the annexe's design represents a planning policy objection given the environmental harm. There is a need for restrictive policies to be applied, and this restriction is an appropriate proportional response to that need.
8. Representations in support of the appellant are noted. The annexe's use in connection with looking after and caring for vulnerable individuals is noted. I have had due regard to the Public Sector Equality Duty under the Equality Act 2010. However, harm to neighbours' living conditions caused by the development outweigh its benefits in terms eliminating discrimination against persons with the protected characteristics, advancing equality of opportunity for those persons and fostering good relations between them and others.
9. Pulling all the above points together, the annexe, as built, has a materially harmful effect on living conditions of the neighbours, but the 2022 scheme is an appropriate alternative although there might be some cost and disruption due to the work required. Nevertheless, there are social and economic arguments in favour because the appellant needs the development in connection with caring. That said, the alternative scheme should meet those needs. There are personal circumstances and human rights implications, but there is also perceived and actual harm to amenity. I attach significant weight to the other considerations advanced but, on balance, I conclude it is proportionate and necessary to dismiss the ground (a) appeal because of the harm caused to neighbours' living conditions to which I attach greater weight.

Appeal A and B - ground (g)

10. The nature of the work required by the notice is significant and, as I have already said elsewhere, there is likely to be some disruption and financial implications. Although the appellants have obtained an estimate for some kind of re-roofing, further details may be required given the change to a hipped roof from pitched. In addition, there are human rights implications, which I

² European Convention on Human Rights protections have been codified into UK law by the Human Rights Act 1998.

have set out above. I too agree 3 months is unreasonable and 9 months is a suitable compromise. Ground (g) succeeds to this limited extent only.

Overall conclusions

11. For all the above reasons and having considered all other matters raised, I conclude that the appeal against the enforcement notice should fail on ground (a) and planning permission is refused. As I have varied the period of compliance, ground (g) succeeds to that extent in Appel A and B.

A U Ghafoor

INSPECTOR