



Appeal Decision

Site visit made on 30 March 2026

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08th April 2026

Appeal Ref: APP/K2230/C/24/3350547

Land at The Prince Albert Public House, 26 Wrotham Road, Gravesend, Kent DA11 0PW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
- The appeal is made by Mr Edris Barbers against an enforcement notice issued by Gravesham Borough Council.
- The notice was issued on 1 August 2024.
- The breach of planning control as alleged in the notice is Without the benefit of planning permission, the erection of a timber outbuilding located along the eastern boundary within the rear garden area.
- The requirements of the notice are: (i) Demolish the outbuilding located along the eastern boundary which is the subject of this notice in its entirety; (ii) Restore the garden area to its former condition; (iii) Remove all resultant rubble and debris from the Property upon compliance with step (i).
- The period for compliance with the requirements is three calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f), and (g) of the Act. 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 in the terms set out below in the Formal Decision.

The notice

1. It is claimed that the notice is fundamentally flawed because the reasons stated for issuing the notice mention that it appears the alleged breach occurred and was substantially completed within the last 4 years, instead of 10 years. However, the appellant has misinterpreted changes to section 171B of the Act which came into force on 25 April 2024. The relevant legislation¹ explains that any operational development which was substantially complete prior to that date would become lawful and exempt from planning control after a period of 4 years. Since the alleged breach in this case was substantially complete prior to 25 April 2024, the 4-year rule applies and there is no such error in the notice.

Ground (d)

2. To succeed under this ground of appeal the appellant needs to show, on the balance of probabilities, that at the date when the notice was issued, no enforcement action could be taken in respect of the timber outbuilding. The onus is on the appellant to provide sufficiently precise and unambiguous evidence to show, as a matter of fact and degree, that the outbuilding was substantially complete at least 4 years before the notice was issued.
3. The outbuilding comprises two distinct sections: a pyramid-roofed section with a roughly square footprint at the southern end of the site, and a flat-roofed section

¹ The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024

with an irregular footprint directly outside a rear extension to the former public house building.

4. It is claimed that the pyramid-roofed section was erected in mid-2018 and the flat-roofed section was erected as a free-standing structure in 2022. Undated photographs have been provided showing the pyramid-roofed section as an open-sided structure completed prior to the erection of the flat-roofed section. However, the aerial photograph dated April 2019 does not appear to show the pyramid-roofed structure. It is claimed the pyramid-roofed structure is 'clearly visible' in that aerial photograph, but instead it appears to show trestle tables on a green surface in the area now occupied by the pyramid-roofed structure. Furthermore, the Google StreetView photograph dated April 2021 more clearly shows neither section of the outbuilding in place at that time. I have no reason to doubt the dates of the photographs presented.
5. The appellant has therefore failed to provide sufficiently precise and unambiguous evidence to show, on the balance of probabilities, that the outbuilding, or any separate parts of the outbuilding, were substantially complete at least 4 years before the notice was issued.
6. The appeal on ground (d) fails.

Ground (a) and the deemed application for planning permission

Main issue

7. The main issue is the effect of the outbuilding on the character and appearance of the area, with particular regard to the Upper Windmill Street Conservation Area (CA).

Reasons

8. The appeal site is a former public house with car park, located within the western edge of the CA. It occupies a corner plot and the former public house building acts as a focal point in views to the north from this part of Wrotham Road. The development is located within the former beer garden and comprises mainly timber materials with open sides.
9. I have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The significance of the CA lies in its arrangement of mainly 19th century buildings to the designs of local architects/builders, which are typically 2 to 4 storeys in height. Stock brick and stucco finishes are prevalent, as are sash windows and front and rear gardens.
10. In this context, the former public house building, with its rusticated ground floor and stucco first and second floor finishes to its front and side elevations makes a positive contribution to the historic character and appearance of the CA and its significance. Its formerly open beer garden was also consistent with the arrangement of nearby residential rear gardens within the CA, providing breaks between groups of historic buildings. Part of the site comprises a car park accessed off Wrotham Road, which is a negative feature of the CA.
11. Although the site lies on the edge of the CA, the development affects how the CA is seen and experienced in views from Wrotham Road and rear elevation windows and gardens of some nearby residential properties. In those views it is seen as a

poor-quality and apparently makeshift construction, at odds with the historic character of brick-built surrounding buildings. It covers the vast majority – if not all – of the beer garden to the former public house in a location where the single storey pyramid and flat roofs are unusual features.

12. With its poor-quality timber construction, pyramid and flat roofs, and partially open sides, the development is an unattractive and uncharacteristic addition to the CA, and it is seen as such in all available views. Moreover, being spread over most of the former beer garden, it closes part of a previously open gap between buildings which was consistent with neighbouring rear gardens. Overall, the development is incongruous with its surroundings and harms the character and appearance of the CA. In the context of the National Planning Policy Framework (the Framework) it causes 'less than substantial harm' to the significance of the CA.
13. The Framework advises that any harm to the significance of a designated heritage asset should require clear and convincing justification, and that where development leads to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the development.
14. It is claimed that the beer garden was under-utilised and that the development makes a beneficial use of this space to support an otherwise declining hospitality use. There is little before me to show that the existing or any future hospitality use of the site would be unviable in the absence of the development. Nevertheless, there are likely modest economic and community benefits associated with the development in that it provides increased covered hospitality floorspace with employment and spending opportunities, and comprises an effective use of previously developed land in a sustainable location. These benefits, including any which may be public, are limited by their scale. On the evidence provided, I assign modest weight to the benefits associated with the development, which does not outweigh the great weight I assign to the harm caused by the development to the significance of the CA.
15. The development therefore fails to preserve or enhance the character or appearance of the CA and causes harm to the significance of the CA, contrary to Policies CS19 and CS20 of the Gravesham Local Plan Core Strategy (2014) and Saved Policy TC3 of the Gravesham Local Plan First Review (1994). These require, amongst other things, development to be visually attractive and to preserve or enhance the character or appearance of the historic environment.

Conclusion on ground (a) and the deemed application for planning permission

16. The development is contrary to the development plan as a whole and there are no other considerations, including the Framework, which indicate planning permission should be granted in this case. The appeal on ground (a) therefore fails and the deemed application for planning permission is refused.

Ground (f)

17. To succeed under this ground of appeal the appellant needs to show that the steps required to be taken exceed what is necessary to remedy the breach or, as the case may be, to remedy any injury to amenity which has been caused by the breach.

18. The notice requires the demolition of the outbuilding, the restoration of the garden area to its former condition, and the removal of resultant debris. The purpose of the notice is therefore to remedy the breach, rather than any injury to amenity, and it is necessary for me to consider whether this could be achieved with less cost or disruption.
19. Given that the appeal on ground (d) has failed and that all parts of the outbuilding are unacceptable under ground (a), it is not excessive to require the demolition of the pyramid-roofed section of the outbuilding in addition to the flat-roofed section. Furthermore, I am not aware of any lesser steps which would achieve the purpose of the notice by remedying the breach.
20. The appeal on ground (f) therefore fails.

Ground (g)

21. To succeed under this ground of appeal the appellant needs to show that 3 months falls short of what should reasonably be allowed for the notice to be complied with.
22. A period of 6 months has been requested to comply with the notice, on account of the construction and level of fitments. However, there is little information before me as to why the construction and level of fitments are such that 3 months would not be a reasonable period. Based on everything I have read and seen, 3 months would be a reasonable period to comply with the notice.
23. The appeal under ground (g) therefore fails.

Overall conclusion

24. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

Formal Decision

25. 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 Act.

L Douglas

INSPECTOR