



Appeal Decision

Site visit made on 21 March 2026

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

an Inspector appointed by the Secretary of State

Decision date: 10 April 2026

Appeal Ref: APP/A2280/C/24/3342871

4 Everest Lane, Strood, Rochester Kent ME2 3XA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the “Act”).
- The appeal is made by Mr Godswill Enyoisi against an enforcement notice issued by Medway Borough Council.
- The enforcement notice was issued on 14 March 2024.
- The breach of planning control as alleged is the construction of a two-storey rear extension.
- The requirements of the enforcement notice are to: (1) demolish the two-storey extension to the rear elevation of the property on the land in its entirety (2) remove all areas of hardstanding associated with the unauthorised development including concrete base and hardcore footings in their entirety from the land (3) remove all resultant debris and associated materials arising from compliance with the above requirements from the land, and (4) restore the land to its condition prior to the commencement of the unauthorised development.
- The period for compliance with requirement (1) and (2) is 4 months, with requirement (3) compliance period is 5 months and 6 months for requirement (4).
- The appeal is proceeding on the grounds set out in section 174(2) (c) of the Act. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Reasons

2. On 5 March 2018, planning permission¹ was granted for the construction of a 2-storey rear extension and porch to the front of the detached property. For convenient shorthand, I refer to this as “the 2018 Permission”). Condition 1) required development to begin before expiration of 3 years and 2) stipulates that the development shall be carried out in accordance with the drawing no. DKM/7570/05 Revision 06 received 5 March 2018. An informative explains the planning decision also relates to the documents submitted with the application and various other drawings. However, none of these form part of condition 2). Had the Council required details to be implemented in accordance with these other drawings, it should have listed them in condition 2).
3. For planning law purposes, the time when development granted by full planning permission is begun has been specified in the Act². If the development consists of the carrying out of operations, development is initiated at the time when those operations are begun. In addition, development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out. The latter is defined at s56(4) and includes the digging of a trench which is to contain the foundations, or part of the foundations, of a building. In practice, little is needed for development to be begun. It is only necessary for the material operation to be begun.
4. The Council argue that the 2018 Permission lapsed because material operations had not commenced prior to 5 March 2021. The appellant states they started the build by excavating the

¹ Council ref MC/17/4443.

² See section 56 of the Act.

heap of soil at the back of the house and dug the foundation in 2021 January. A neighbour, whose property is in proximity to no. 4, also indicates that the excavation of the back started March 2021 and to them the footings did not appear to be deep enough. At final comments stage, the appellant also provided photographs dating to March 2021 showing some of the excavations to the rear of the dwellinghouse. Moreover, a report from an approved building control inspector confirms works started in March 2021. It seems to me that the nature of the work done comprised in the development for which planning permission had been granted. Given the extent of the excavations, the work done was more than de minimis. Contrary to the Council's assertions, work involved in the digging of foundation trenches probably began before the expiration of 3 years as required by condition 1) imposed on the 2018 Permission.

5. The problem is that the extension, as built, does not accord with the approved drawing. Here, again, the courts have helped as to the correct approach. For example, the materiality of similarities and differences between the plans and what is built is a fact and degree question as is the question of implementation: a point reinforced in *Southwood v Buckinghamshire Council & Green* [2024] EWHC 71 (Admin). However, the Supreme Court held in *Hillside Parks Ltd v Snowdonia NPA* [2022] UKSC 30 that, where changes to the development are immaterial, the development remains within the scope of the planning permission, even if no application for a non-material change was made.
6. The 2018 Permission relates to a two-storey extension with the following measurements: 3.41 metres in depth, 9.65 m wide, 5.5 m in height to the eaves and 7.27 m in height to the pitch. The appellant confirms that the extension, as built, is 4.62 m deep, 10 m wide, 6.07 m in height to the eaves and 7.5 metres in height to the pitch. It is deeper, wider and taller than the approved plans. Although the fenestration detail and layout differ slightly from the scheme approved and the appellant considers the difference in measurements marginal, there is an added complexity. The approved drawing shows a hipped roof design being set down from the height of the roof of the original dwellinghouse. The as-built extension has a gabled roof with slightly different dimensions. Additionally, the approved plans show a new hipped roof being added to the existing side extension that would be subservient to the existing roofline with a chimney stack.
7. Although there are similarities between the approved scheme and the as-built extension, the differences are significant given the altered roof, which has a materially different design, shape and layout when compared to the scheme approved. The two-storey extension has a visually different impact given the bulk of the as-built gable-end roof. As a matter of fact and degree, when the difference in size, layout, detail and roof design is taken in combination, the implemented development departs materially from the scheme approved by the 2018 Permission and the notice correctly alleges the carrying out of development without planning permission.
8. Clearly, the extension does not benefit from planning permission, and it is not permitted by virtue of article 3, schedule 2, class A to the Town and Country (General Permitted Development) (England) Order 2015 as amended. Accordingly, on the balance of probabilities, express planning is required for the alleged matters, and it has not been obtained. Ground (c) must fail.

Conclusion

9. The appellant says they have been trying to resolve matters either through regularisation or compliance with the extant 2018 Permission given the departures are retrievable, but this is a matter for them to take up with the Council. For the above reasons and having considered all other matters raised, the onus has not been discharged and the appeal should fail.

A U Ghafoor

INSPECTOR