



Appeal Decision

Site visit made on 17 March 2026

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 April 2026

Appeal Ref: APP/W0734/C/25/3369586

9 Chester Street, Middlesbrough TS1 4NW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act").
 - The appeal is made by Mr Rizwan Wajid against an enforcement notice ("EN") issued by Middlesbrough Council.
 - The EN was issued on 16 July 2025.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a single storey extension to the rear elevation of the dwelling more than 3 metres deep and covering more than 50% of the ground within the curtilage of the original dwellinghouse.
 - The requirements of the EN are to:
 - a) Demolish the single storey rear extension, including the new brickwork used to build up the boundary walls, shown in the approximate position outlined and crosshatched on the attached plan.
 - b) Remove from the land the building materials and debris resulting from the demolition of the single storey rear extension together with any plant, tools and equipment used in connection with the demolition and removal.
 - The period for compliance with the requirements is: Two (2) months after this notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(c) of the 1990 Act.
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Decision

1. It is directed that the EN is corrected and varied by:

- *the deletion of the words "Without planning permission, the erection of a single storey extension to the rear elevation of the dwelling more than 3 metres deep and covering more than 50% of the ground within the curtilage of the original dwellinghouse" and their substitution with the words "Without planning permission, the erection of a partially constructed single storey extension to the rear elevation of the dwelling" in section 3;*
- *the deletion of the words:*
 - "a) Demolish the single storey rear extension, including the new brickwork used to build up the boundary walls, shown in the approximate position outlined and crosshatched on the attached plan.*
 - b) Remove from the land the building materials and debris resulting from the demolition of the single storey rear extension together with any plant, tools and equipment used in connection with the demolition and removal."*

and their substitution with the words:

"a) Demolish the partially constructed single storey extension to the rear elevation of the dwelling, including the new brickwork used to build up the

boundary walls, shown in the approximate position outlined and crosshatched on the attached plan.

b) Remove from the land the building materials and debris resulting from the demolition of the partially constructed single storey extension to the rear elevation of the dwelling, including the new brickwork used to build up the boundary walls, together with any plant, tools and equipment used in connection with the demolition and removal."

in section 5.

2. Subject to the correction and variation, the appeal is dismissed and the EN is upheld.

Matters Concerning the Notice

3. The alleged breach of planning control implies that the extension is complete. However, the evidence before me and from what I saw on my site visit indicate that it is unfinished. The allegation also includes superfluous words that are not an act of development. Consequently, I sought the parties' views on correcting the alleged breach of planning control to "*...the erection of a partially constructed single storey extension to the rear elevation of the dwelling*". No response was received from the Council.
4. The appellant, although referring to the structure in their response as "*unfinished*", having an "*unfinished appearance*", and describing the "*works being halted*", disagreed with my suggestion to correct the allegation to include the words "*partially constructed*". They assert that I have been influenced by the unfinished state of the internal works at the time of my site visit.
5. The definition of "*partially constructed*" is a structure, project or item that has begun but has not fully been completed or finished. Consequently, I am satisfied that "*partially constructed*" accurately describes the allegation and therefore, no injustice would be caused to either main appeal party from correcting the allegation in this way.
6. Other matters were raised by the appellant in their response. However, these were a duplication of the evidence they had already advanced in respect of their ground (c) appeal. Therefore, I will consider these matters below.
7. As a consequence of correcting the allegation, I must also vary the EN's requirements to align with the alleged breach. As this variation is for precision, I am satisfied that it would not cause injustice to either party.

Preliminary Matters

8. The evidence before me suggests that a section of brickwork along the boundary shared with 7 Chester Street and part of the flat roof between the appeal property's side elevation and the boundary shared with No 7 has been removed since the EN was issued. However, I must consider the allegation at the time the EN was issued, not as subsequently altered.
9. The appellant has advanced material considerations in support of their appeal including the previous roof being unsafe and problems with vermin. However, I cannot take these matters into consideration when determining an appeal under

ground (c). Furthermore, in the absence of an appeal under ground (a), I cannot consider any amendments or reductions to the extension.

Appeal on Ground (c)

10. An appeal under ground (c) is that the matter alleged in the EN does not constitute a breach of planning control. The onus of proof is on the appellant to show there has been no breach of planning control. The relevant test is the balance of probability.
11. The EN (as corrected) alleges that a single storey extension has been partially constructed to the rear elevation of the dwelling. The appellant contends that the allegation is not a new rear extension, but the repair and consolidation of an existing garage and shower room. Therefore, they assert the allegation does not constitute development under s55 of the 1990 Act. However, if I find that the allegation does comprise development, the appellant asserts that it is permitted development in accordance with Class E, Part 1, Schedule 2 of the Town and Country (General Permitted Development) (England) Order 1995 ("GPDO").
12. Operational development is defined in s55(1) of the 1990 Act as the carrying out of building, engineering, mining or other operations in, on, over or under land. "*Building operations*" are defined by s55(1A) of the 1990 Act as including the demolition of buildings and rebuilding. S55(2)(a) of the 1990 Act states that the carrying out for the maintenance, improvement or other alteration of any building of works which (i) affect only the interior of the building, or (ii) do not materially affect the external appearance of the building, shall not be taken to involve development of the land.
13. The appellant has submitted various historic Google aerial images that show a structure to the rear of the appeal site. However, the images are of poor quality, and no other photographic evidence has been provided of the structure prior to the allegation taking place. Consequently, I am unable to determine the appearance, siting or scale of the structure shown in the images.
14. Photographic evidence taken during the works show only a concrete floor slab and the three boundary walls remaining. Another photograph shows newly laid brickwork on top of the boundary wall shared with No 7, and the construction of an entirely new roof extending between the three boundary walls. Furthermore, it was clear from my site visit that a building described by the appellant in their evidence as a shower room had been demolished in its entirety with remnants of tiling attached to a wall, and a doorway between the kitchen and extension still in place.
15. I saw during my site visit that an existing door in the rear boundary wall has been infilled; a new doorway with a door had been constructed in the rear boundary wall; the roof had been covered with ply and membrane but was missing soffits and guttering in places; studwork had begun to be constructed internally; and the extension was open to the remainder of the dwelling's rear yard.
16. Taking these factors together, I am satisfied on the balance of probability, that the works undertaken amount to the demolition of the structure that previously existed within the dwelling's rear garden and the partial construction of a new extension. It therefore follows that the building operations are development for the purposes of s55 of the 1990 Act.

17. The appellant has directed me to *Impey v Secretary of State* [1984] and *Pugh v Secretary of State* [1994] to support their case. Copies of these judgements were not provided, and I have not been able to locate a judgement for the name and date of the latter. In respect of the former, it is assumed the appellant is referring to *Impey v SSE & Lake District SPB* [1981] JPL 363 and [1984] P&CR 157. This judgement was concerned with whether a change of use had taken place as a result of physical works, which is not directly relevant to this appeal. Furthermore, I have not been referred to any relevant section within the judgement that the appellant considers supports their case.
18. Class E, Part 1, Schedule 2 of the GPDO refers to buildings incidental to the enjoyment of a dwellinghouse. Government guidance¹ on Class E of the GPDO states “*buildings which are attached to the house are not permitted under Class E (they would be subject to the rules in Class A)*”. The extension is physically attached to the dwelling and therefore, the relevant section of the GPDO is Class A, Part 1, Schedule 2.
19. The Council assert that the extension extends beyond the rear wall of the original dwellinghouse by more than 3m and the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) exceeds 50% of the total area of the curtilage. The appellant has not disputed these matters. From what I saw during my site visit, I have no reason to disagree with the Council’s assertion. Consequently, I am satisfied that the extension would not comply with Class A, Part 1, Schedule 2 of the GPDO.
20. For these reasons, the appellant has failed to show, on the balance of probability, that the matters alleged in the EN do not constitute a breach of planning control. Therefore, the appeal on ground (c) fails.

Conclusion

21. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the EN with a correction and variation.

A Berry

INSPECTOR

¹ Permitted development rights for householders: technical guidance, updated 10 September 2019