



Appeal Decision

Site visit made on 7 April 2026

by **Andrew Dale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 April 2026

Appeal Ref. APP/W3710/C/25/3375724

Whitestone Dental Practice, 41 Lutterworth Road, Nuneaton CV11 4LE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Whitestone Family Dental Practice against an enforcement notice issued by Nuneaton and Bedworth Borough Council.
 - The notice was issued on 16 October 2025.
 - The breach of planning control as alleged in the notice is: *"Without planning permission, the construction of a single storey rear extension."*
 - The requirements of the notice are:
 - "1) Demolish in full the extension and associated foundations located within the blue lined area shown on the attached site location plan.*
 - 2) Remove all subsequent builders materials and waste from the site on the completion of Step 1 above."*
 - The period for compliance with those requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

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

Matters of clarification

2. The Council has already considered and refused (on 13 October 2025) a planning application (ref. 041028) made retrospectively for the development the subject of the notice, albeit on some papers in that case it was referred to as a replacement outbuilding. Whitestone Family Dental Practice lodged an appeal under section 78 against the refusal of planning permission. I am aware that that appeal (ref. 6001656), submitted concurrently with this enforcement notice appeal, was subsequently dismissed on 26 February 2026.
3. The Planning Inspectorate confirmed in a letter dated 12 November 2025, the same day as the enforcement notice appeal was submitted, that an appeal against the enforcement notice on ground (a) - that planning permission should be granted for what is alleged in the notice - is barred as the restrictions placed by section 174(2A) would be met. Hence, this appeal proceeds under grounds (f) and (g) only. The planning merits of the alleged breach of planning control are not before me. They were, in any event, fully considered under appeal ref. 6001656.
4. A further planning application (ref. 041305) for the erection of an outbuilding was submitted to the Council. This received planning permission on 8 January 2026.

The appeal on ground (f)

5. The issue in this ground of appeal is whether the requirements of the enforcement notice are excessive to achieve the purpose of that notice.
6. Section 173 of the Act explains that an enforcement notice can have the purpose of remedying the breach of planning control by, amongst other things, restoring the land to its condition before the breach took place, or it can seek to remedy any injury to amenity caused by the breach. Whilst the notice does not state as such, its purpose must be to remedy the breach of planning control that has occurred. The steps required by the notice include demolishing in full the extension and associated foundations. By taking this and the other step, the property would be restored to its condition before the breach took place and nothing more.
7. The appellant offers lesser steps. It is proposed that either the development is removed but with the original outbuilding being reinstated or that the size of the development is reduced. In following either scenario, it is said that the parking spaces lost as a result of the single storey rear extension can be made available.
8. However, with regard to the first scenario, whilst the original outbuilding might well be shown on relevant drawings, any lawful use rights as had attached to the original outbuilding were lost when it was demolished and removed from the site to accommodate the single storey rear extension. The appellant has not disputed the Council's stance that its reinstatement would require planning permission in its own right. The Council points to the case of *Ioannou v SSCLG & Enfield LBC [2014] EWCA Civ 1432* which is authority for the view that the requirements of the notice cannot be varied so as to result in a grant of deemed planning permission under section 173(11) for operations that did not exist when the notice was issued. The limitation to what may be permitted under section 177(1) cannot be sidestepped by adopting an interpretation of section 173(11) which would, in effect, in conjunction with ground (f), enable a grant of planning permission for matters other than those specified as constituting the breach of planning control. It would also be excessive for the notice to require the rebuilding of the previous structure, when demolition was not alleged in the breach of planning control.
9. On the second scenario, there are no details about what the appellant has in mind for a reduction in the size of the development. Still, it would evidently lead to part of the single storey rear extension remaining in situ, so it would sustain rather than remedy the breach and would not restore the property to its condition before the breach took place. Moreover, any substitute step which did not require the removal of the whole structure would attack the substance of the notice. If an appeal is not brought on ground (a), which would allow for the consideration of the planning merits and of possible planning conditions, the power to vary the terms of the notice under section 176(1) cannot be used to attack the substance of the notice.
10. The breach of planning control alleged can only be remedied by the requirements in the notice. There are no lesser steps that would achieve the statutory purpose behind the notice. Consequently, I find that the appellant's proposals do not represent an acceptable alternative to the steps set out in the notice.

11. Since the enforcement notice was issued, planning permission has been granted (ref. 041305) for the erection of an outbuilding at the property. However, this has limited implications in terms of the current appeal. Having regard to section 180(1) of the Act, the enforcement notice would only cease to have effect so far as it is inconsistent with that permission.
12. To sum up, the requirements of the notice are not excessive. Rather, they are a proportionate remedy, being the minimum steps necessary to restore the land to its condition before the breach took place and in doing so achieve the purpose of the notice. The appeal on ground (f) fails.

The appeal on ground (g)

13. For a challenge on this ground to succeed, I would need to be satisfied that the 3-month compliance period set out on the enforcement notice falls short of what should reasonably be allowed.
14. I have studied the facts given by the appellant for this ground of appeal. Within them, the appellant accepts that if the further planning application (ref. 041305) for the erection of an outbuilding was granted planning permission by the Council, then a 3-month compliance period, as stated in the enforcement notice, would be reasonable for the remedial action required. Planning permission was forthcoming. Therefore, I am not satisfied there is good reason to extend the compliance period.
15. However, should any genuine and unforeseen difficulties be encountered, it is open to the appellant to submit a request to the Council to use their powers under section 173A(1)(b) of the 1990 Act to extend the compliance period themselves, should they be satisfied there is justification at that time for doing so.
16. The appeal on ground (g) fails.

Conclusion

17. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Andrew Dale

INSPECTOR