



Appeal Decision

Site visit made on 31 March 2026

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd April 2026

Appeal Ref: APP/W0734/C/24/3358162

45 Ruskin Avenue, Middlesbrough TS5 8PG

- 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 Ahmmad Al-Falahi against an enforcement notice issued by Middlesbrough Council.
- The notice was issued on 20 November 2024.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey garden building – outlined and cross hatched in black on the attached plan - divided into four rooms providing self-contained residential accommodation ("the garden building").
- The requirements of the notice are to:
 - a) Demolish the garden building.
 - b) Remove from the land the resulting material and debris, together with any plant, tools and equipment used to undertake the required steps.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) 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.

Decision

1. 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.

Appeal on ground (a)

2. This ground of appeal is that planning permission should be granted for the erection of a single storey garden building divided into four rooms providing self-contained residential accommodation.

Main issues

3. The main issues are whether a separate residential unit is created including the effect on the character of the surrounding area; and the effect of the development on the living conditions of occupiers of neighbouring properties in terms of light and overbearing effect.

Reasons

Separate residential unit

4. Where an outbuilding within the same planning unit as the dwellinghouse is used for the provision of additional living space, it will not be in incidental use. It will be in the same use as the house. It will be in residential use and not a use that is incidental to residential use. The outbuilding will either be used for residential

purposes that are integral to the residential use of the house, or there will have been the creation of a separate dwelling.

5. The notice alleges the erection of a garden building that provides self-contained residential accommodation, whereas the appellant implies that the garden building is used for residential purposes integral to the residential use of the main dwelling. At my site visit I saw that the garden building had several large rooms, one which contained a shower, toilet and sink, another that contained a kitchen including fitted cupboards and a cooker, and then there was another room which had a separate sink facility. From the layout of the garden building, including some of the facilities that were present in the building, I consider that this is a separate dwelling and does not constitute a living space that would be integral to the residential use of the main house. There is no compelling evidence to convince me that the garden building is not a separate dwelling.
6. The garden building is not highly visible from public view points and therefore would not have an adverse effect on the appearance of the surrounding locality. It is also noted that there are other outbuildings located in neighbouring gardens. Nevertheless, the garden building as a separate dwelling can intensify movements to and from the appeal site. There is no allocated parking for the garden building which could result in increased parking of vehicles on the street. There is no separate private garden areas associated with the garden building. Due to its size, lack of garden area, parking and its proximity with the main house, the garden building is overdevelopment within its current setting, and does have a detrimental effect on the character of the surrounding area.
7. The garden house is the creation of a separate dwelling and is harmful to the character of the surrounding area. It does not accord with Policies CS4 and CS5 of the Middlesbrough Local Development Framework Core Strategy 2008 (CS) and the Middlesbrough's Urban Design Supplementary Planning Document 2013 which seeks development to make the most efficient use of land and contribute to the character of the area.

Living conditions

8. The garden building is constructed up to the boundary of properties to the east and to the north. Whilst there is some separation with the property to the east, the garden building is located within close proximity to the properties immediately to the north. Due to the height, position and orientation of the garden building in relation to the properties to the north, the building does appear as an overbearing structure that results in the loss of light and has a detrimental effect on the living conditions of occupiers of the properties to the north.
9. The garden building is harmful to the living conditions of occupiers of neighbouring properties in respect of light and overbearing effects. It does not accord with Policy CS5 of the CS which seeks development to secure a high standard of design.

Other matters

10. The appellant argues that the height of the garden building only needs to be reduced slightly in order for it to comply with Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO). The appellant states that they would erect a building in accordance with the requirements of the GPDO and therefore this matter is a

viable fallback position. However, a building that is to be used as a separate dwelling within the curtilage of a dwellinghouse would not be incidental to the enjoyment of the dwellinghouse and therefore would not be permitted development in line with Part 1, Class E of the GPDO. I therefore do not consider this matter to be a viable fallback position.

Conclusions on ground (a)

11. The garden building would conflict with the development plan as a whole and there are no other considerations, including the provisions of the National Planning Policy Framework, which outweighs this finding.
12. For the reasons given above, I conclude that the appeal fails on ground (a).

Appeal on ground (f)

13. An appeal on ground (f) is that requirements of the notice exceed what is necessary in order to remedy the breach of planning control or, as the case may be, the injury to amenity that is caused by the breach. The notice requires the demolition of the garden building and removal of resulting material and debris, and therefore the purpose is to remedy the breach of planning control.
14. The appellant reiterates arguments that the garden building is not a separate dwellinghouse and this matter is discussed under the ground (a) assessment of the appeal.
15. The appellant does indicate that the requirements are excessive as it would be wasteful in terms of construction and demolition costs, that would result in waste that is not in the interest of sustainable development. The appellant therefore requests that the garden building is altered in order to accord with permitted rights in Schedule 2, Part 1, Class E of the GPDO. However, the GPDO does not grant retrospective planning permission. Varying the requirements of the notice to alter the garden building in line with permitted development rights would not serve to remedy the breach of planning control. The garden building is unlawful as a whole, not just the parts that do not comply with the permitted development right limits.
16. Accordingly, I conclude that the notice requirements are not excessive and the appeal on ground (f) fails.

Conclusion

17. For the reasons given above, I conclude that the appeal should fail on grounds (a), and (f), and therefore the appeal is dismissed, and the enforcement notice should be upheld.

Chris Baxter

INSPECTOR