



Appeal Decisions

Site visit made on 14 April 2026

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 April 2026

Appeal A Ref: APP/G3110/C/25/3375396

Appeal B Ref: APP/G3110/C/25/3375397

Land at 40 Bartholomew Road, Oxford, Oxfordshire OX4 3QQ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made by Mrs Tabasem Khan (Appeal A) and Mr Jamil Mohammed Chaudhry (Appeal B) against an enforcement notice issued by Oxford City Council.
 - The notice was issued on 30 September 2025.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a two-storey side and rear extension on the land.
 - The requirements of the notice are: (i) Demolish the unauthorised two-storey side and rear extension at 40 Bartholomew Road, Oxford, shown hatched on the plan attached the notice. (ii) Remove from the land all materials and debris resulting from the demolition works required in step (i).
 - The period for compliance with the requirements is five months.
 - The appeals are proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 (as amended). Since the prescribed fees have not been paid within the specified period, the appeals on ground (a) and the applications for planning permission deemed to have been made under section 177(5) of the Act have lapsed.
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Decisions: Appeals A and B

1. It is directed that the enforcement notice is varied by in step (i) of the requirements at paragraph 5, deleting '*shown hatched on the attached plan.*' Subject to the variation, the appeals are dismissed and the enforcement notice is upheld.

Preliminary Matters

2. Step (i) of the requirements in paragraph 5 of the enforcement notice requires demolition of '*the unauthorised two-storey side and rear extension...shown hatched on the attached plan.*' There is no hatching shown on the plan attached to the copies of the enforcement notice supplied. Nevertheless, the appellants can have little real doubt regarding what the notice requires them to do. Step (i) would still be sufficiently precise even without reference to the attached plan. Therefore, I shall exercise the powers in s176(1) of the 1990 Act to correct any defect, error or misdescription in the notice or to vary its terms, by deleting the reference to the attached plan in step (i). There would be no injustice, either to the appellant or the Council, in doing so.
3. No appeal has been brought on ground (a) and the relevant fee has not been paid. Therefore, planning merits considerations cannot form part of my deliberations.

Appeals A and B

Ground (f) appeals

4. The ground of appeal is that the requirements of the enforcement notice are excessive.
5. The appeal property contains a two storey, semi-detached dwelling. The notice attacks the erection of a two storey extension at the side and rear of the dwelling. Planning permission was granted to erect a part first floor, part two storey side and rear extension at the property in January 2021 ('the planning permission').¹
6. An enforcement notice can have the purpose of remedying the breach, including by restoring the land to its condition before the breach took place (s173(4)(a) of the 1990 Act), or it can have the purpose of remedying any injury to amenity caused by the breach (s173(4)(b)). Although the notice does not state as such, its purpose must be to remedy the breach within s173(4)(a). Steps (i) and (ii) require nothing less than total demolition of the unauthorised extension along with removal from the property of all the resulting materials. The notice does not require an action or actions which stop short of total demolition of the extension. By taking the steps set out in the notice, the property would be restored to its condition before the breach took place.
7. The appellants sought to modify the extension to conform to the approved drawings which accompanied the planning permission, as an alternative to its demolition. Given the remedial role of the enforcement regime, whether there is any obvious alternative to the requirements which would overcome the planning difficulties at less cost and disruption is an important consideration. Nevertheless, undertaking such modifications would leave a large part of the extension in place. That would sustain the breach, as the property would not be restored to its condition before the breach took place.
8. Moreover, varying the notice so that it required less than total demolition of the extension would attack the substance of the notice. That would not fall within the scope of what can be accomplished through a ground (f) appeal where, as in this instance, the purpose of the notice is to remedy the breach and there is no ground (a) appeal. An enforcement notice which requires land to be restored to its condition prior to the breach taking place cannot be made to achieve something less by relying on ground (f) alone; the power to allow an appeal on this ground does not extend to granting planning permission.
9. At s173(4)(a), the 1990 Act also provides for remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission granted in respect of the land. However, without any ground (a) appeal being made the planning permission would have to still be extant for an enforcement notice to be capable of being varied in such a fashion.
10. There is little firm evidence to support development having commenced in accordance with the planning permission. The extension differs materially from the approved drawings, notably in terms of its footprint, overall height and consequent scale. Substantial parts of the extension would require taking down and rebuilding

¹ Council Ref: 20/02907/FUL

to comply with the approved drawings. The planning permission has subsequently lapsed.

11. Consequently, modifying the extension to comply with the approved drawings does not represent an obvious alternative to the notice requirements. No other alternative to those requirements was suggested and to my mind, nothing less would remedy the breach. It follows that the notice requirements are not excessive; they are a proportionate remedy, being the minimum steps necessary to restore the property to its condition before the breach took place and so achieve the purpose of the notice.
12. The ground (f) appeals fail.
13. It is open to the appellants to make a further planning application to the Council to modify the extension to accord with the planning permission. The final decision on any such application would rest with the Council in the first instance.

Conclusions

14. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a variation.

Stephen Hawkins

INSPECTOR