



Appeal Decisions

Site visit made on 17 March 2026

by Zoë Franks, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 07 May 2026

Appeal A Ref: APP/W4705/C/24/3357586

Appeal B Ref: APP/W4705/C/24/3357588

1 Winnard Row, Birch Lane, West Bowling, BRADFORD, West Yorkshire , BD5 8NZ

- The appeals made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - Appeal A and Appeal B are made by Mr Shoket Khan and Mrs Azizen Khan respectively against an enforcement notice issued by City of Bradford Metropolitan District Council.
 - The notice was issued on 14 November 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of an outbuilding on the land.
 - The requirements of the notice are i. Demolish the outbuilding to ground level; ii. Make safe the embankment and remove all resulting materials from the land.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) and (f) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The enforcement notice is quashed.

The Notice

2. There is a long history regarding the appeal site and development on it. It is clear from the very many documents submitted by the appellants in these appeals, including contemporaneous correspondence between the parties, that the Council have been aware of the appeal land since at least 2009.
3. The notice alleges the construction of an outbuilding on the land. It is common ground that the appellants had undertaken some works on the land beginning in around 2009. These works are described in a letter from the Planning Services Enforcement department of the Council dated 4 April 2009:

“a site visit was carried out on 2 April 2009 when it was noted that you have extended your garden and constructed a building into the hillside to the rear of your property on land outside of your residential curtilage.”
4. Leaving aside the issue of curtilage, this letter is an acceptance that a building (described elsewhere in the letter as an “*outbuilding*”) was present on the appeal land at that time. It is described in a further letter from the Building Control Services department of the Council dated 8 April 2009 as “*Detached building constructed at rear property.*” The correspondence further shows that a Full Plans Building Regulation Application was made on 12 May 2009 described as “*Storage shed roof as extended garden*”.

5. More recently, an email was sent from a Planning Officer in Development Services dated 13 September 2023 which states:

"I note that there has been some extent of structure at the site for a number of years and I note some enforcement history at the site. Upon further examination of documents and satellite imagery, it is clear that structure has existed for a number of years forming an extension to your garden."

6. The appellants submitted an application for a Lawful Development Certificate ("LDC") reference 24/00072/CLE. The application was for existing building works, and included a description of the whole building.
7. The Council did not consider the earlier works which appear to constitute a smaller building separately when determining the LDC application because the description of development in that application was for the whole of the building as it existed at that time. The LDC officer report dated 11 April 2024 states:

"The submission includes annotations on drawing No. 9872/03 showing storage areas over two floors and a patio area, however, this plan refers to the structure prior to 2019 and is not being considered separately as part of this application. Rather, the plans showing the structure as built on drawing No. 9872/01 are relevant to this proposal and hence, are being considered as the current structure is shown."

8. The Council has not disputed these plans which were submitted by the appellant in May 2023 and which show a smaller building on the site "prior to 2019". The two sets of LDC plans taken together indicate that the work taken after 2019 included the top storey with the raised element and patio roof with balustrade i.e. the part of the works that protrudes higher than the level of the rest of the garden (other than the structure allowing access to the stairs into the lower floors).
9. The appellants have always been clear that different elements of the building were built at different times, and that it was only "stage 2" which occurred during Covid (and therefore not more than 4 years before the date of the notice). Whilst consideration of an LDC application is generally limited to the description sought, which in this case was the entirety of the development, the current appeals relate to the enforcement notice. An enforcement notice must specify the matters which appear to the LPA to constitute the breach of planning control, and which must tell the recipient fairly what they have done wrong.
10. I am satisfied, on balance, that the initial building which was commenced in 2009 falls within the definition of development in section 55 of the Town and Country Planning Act 1990. In order to become immune from enforcement action, that operational development would need to have been substantially completed more than 4 years before the issue of the notice.
11. The appellant refers to "stage 1" and "stage 2" of the building and accepts that the works overall were completed in June 2021 which is not more than 4 years prior to the issue of the notice on 14 November 2023. The appellant also argues that the construction of foundations in 2008, a retaining wall in 2011 and further foundations in 2012 which constituted significant groundwork were substantially completed well in advance of the four-year period prior to the issue of the notice.

12. The subsequent works which took place during Covid were an extension to the original building. As a matter of fact and degree based on the submitted plans and contemporaneous correspondence, these works did not create a new building entirely, and the original building did not cease to exist. As set out above, the Council identified that an outbuilding was present on the site in 2009, and it appears on balance from the plans and description provided by the appellants and others, that a new storey was added to the top of the existing building subsequently.
13. Although the Council have not specifically addressed this point, the appellant has shown on the balance of probabilities, that the original works (as identified in the LDC plans as having been undertaken prior to 2019) were substantially completed more than 4 years before the issue of the notice, and would therefore be immune from enforcement action. The additional works which were undertaken after 2019 are not immune.
14. I cannot correct the allegation in the notice without causing injustice to the parties as they have not had the opportunity of presenting their case in relation to “stage two” as an extension to the existing building. The requirements would also need to be fundamentally corrected if the allegation were to change, and the Council have not had the opportunity to comment on what would be appropriate, with proper consideration of any potential issues such as under-enforcement.
15. The Council may wish to consider, taking into account the submissions in this case and any other documents held by various departments, and expediency, whether to issue another enforcement notice which identifies which works were immune from enforcement action. This may also affect the scope of the requirements in order to remedy the breach of planning control or harm to amenity (depending on the purpose of the notice), and it would cause injustice to them if they did not have this opportunity.

Conclusion

16. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control.
17. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act (as amended), since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed.

Zoë Franks

INSPECTOR