



Appeal Decision

Site visit made on 17 March 2026

by Zoë Franks, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 8th May 2026

Appeal Ref: APP/W4705/C/25/3374594

115-117 Oak Lane, BRADFORD, BD9 4QU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Muhammed Ilyas against an enforcement notice issued by City of Bradford Metropolitan District Council.
 - The notice was issued on 2 September 2025.
 - The breach of planning control as alleged in the notice is without planning permission, the installation of two extractor flues to the south facing (rear) elevation of the building on the land.
 - The requirements of the notice are to remove the two unauthorised extractor flues and all means of fixing from the south facing (rear) elevation of the building on the land.
 - The period for compliance with the requirements is two calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2)(d) and (f) 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.

Preliminary Matters

2. The notice alleges the installation of two extractor flues. It is evident from the submissions from interested parties, including historic Google Streetview photographs, that there has been two flues on the rear elevation of the appeal property for many years. However, the flues shown in the photographs dated August 2008 differ from those shown in the photograph attached to the notice. Whilst the longer of the two flues ("Flue 1") appears to be in the same position as it was in 2008, the shorter flue ("Flue 2") was not in the same location in the older photographs. There was a second flue at that time but this was located much further to the right when facing the rear elevation. In addition, both flues have a materially different flue head (or cowl) which is a different shape, and much larger and more bulky than those shown in 2008. Flue 1 has also been extended considerably above the height of the top of the window frame, and with a bend installed.
3. Flue 1 and Flue 2 fall within the definition of development as, even if some maintenance has been undertaken, the works have materially altered the external appearance of the building. And whilst some of the original Flue 1 as shown in 2008 may have been retained, it has been extended and altered so significantly so as to fall within the common sense meaning of the allegation. The appellant as the recipient of the notice would have understood what was being targeted by the description of the installation of two extractor flues.
4. Evidence submitted by interested parties indicated that there was a hidden ground (d) in the appeal. The parties were contacted to provide any further comments

about this, and had also had the opportunity to respond to these representations through the submission of final comments if they so wished. I have therefore dealt with these matters under the hidden ground (d) appeal below.

Hidden Ground (d)

5. An appeal on this basis is that at the date that the notice was issued, no enforcement action could be taken in respect of the alleged breach of planning.
6. For the reasons given above, it has not been shown that the two current flues have been present on the building dating back to 2008. It is also submitted that the recent works were undertaken in February 2021 before the current appellant's ownership of the premises began in December 2022. This date would have been more than 4 years before the date of the notice, and if the works can be shown to have been completed at that time they would be immune from enforcement action.
7. The appellant has provided letter on headed paper from Khan Tech Engineering which states that they carried work out at the appeal property on 10 February 2021 regarding the extraction flue at rear of property. This letter is not signed, or sworn evidence, and I therefore accord it reduced weight. It is also not sufficiently precise in that it is unclear as to whether it is referring to one or both extraction flues, and does not state that Flue 2 was either relocated on the elevation or installed at that time. It refers to directing air flow away from the window, but this would seem to refer to Flue 1 only factually. The evidence submitted is therefore insufficiently clear and unambiguous and does not show that both flues have been in their current form and location for more than 4 years prior to the issue of the notice.
8. It is for the appellant to show his case on ground (d) on the balance of probabilities and that has not happened in this appeal, even taking into account the submissions from interested parties. The ground (d) appeal does not therefore succeed.

Ground (f)

9. The planning merits of development in an appeal can only be considered where a ground (a) and deemed planning application is made (and the correct fee paid).
10. The appellant has only brought an appeal on ground (f), that the steps required to be taken exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity constituted or caused by the matters stated in the notice. I cannot therefore, without an appeal under ground (a), consider the merits and grant permission for whole or part of the development.
11. The purpose of the notice is to remedy the breach in that it requires removal of the development described in the notice, and as such does not exceed what is necessary to achieve this purpose. The appeal on ground (f) does not succeed.

Zoë Frank

INSPECTOR