
Appeal Decision

Site visit made on 28 April 2026

by **M Ollerenshaw BSc (Hons) MTPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12th May 2026

Appeal Ref: APP/X4725/C/25/3369746

Land at 61 Lee Moor Lane, Stanley, Wakefield, WF3 4ES

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mrs Adele Teale against an enforcement notice issued by Wakefield Metropolitan District Council.
 - The notice was issued on 10 July 2025.
 - The breach of planning control as alleged in the notice is without planning permission, installation of a gorilla statue and supporting structure to the principal elevation of the dwelling on the Land.
 - The requirements of the notice are to: Remove the gorilla statue and supporting structure. Restore the canopy on the front elevation of the dwelling to its original condition.
 - The period for compliance with the requirements is 4 weeks.
 - 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. It is directed that the enforcement notice be varied by deleting the words in paragraph 5 of the notice (What you are required to do) and substituting them with "Remove the gorilla statue and supporting structure from the principal elevation of the dwelling on the Land". Subject to this variation, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. Although the appellant did not formally appeal on ground (f), their suggestion that the alleged development can be altered instead of being removed amounts to a "hidden" ground (f) appeal. As the Council had the opportunity to respond to this matter, I am satisfied that no injustice would arise from considering this ground of appeal.
3. The appellant has highlighted several points in support of retaining the alleged development, which relate mainly to its appearance and the perceived impact on the neighbouring occupiers. I also note the comments from the interested party in support of the development. However, as there is no ground (a) appeal and thus no deemed planning application before me, I am unable to consider the planning merits of the development or whether planning permission should be granted for it.

The Notice

4. The alleged breach of planning control is the installation of a gorilla statue and supporting structure to the principal elevation of the dwelling on the Land. The first step of the requirements under paragraph 5 of the notice is to 'remove the gorilla statue and supporting structure'. As this step does not require these to be removed

‘from the Land’, there is some ambiguity as to what the recipient must do to remedy the breach.

5. Under s176(1) of the Town and Country Planning Act 1990 as amended (the 1990 Act) it is open to me to correct any defect, error or misdescription in the enforcement notice or to vary its terms provided I am satisfied that the correction or variation will not cause any injustice to the parties.
6. Whilst I note the Council is content that I can vary the notice by including ‘from the Land’ at the end of the first step, that would likely make the notice more onerous to comply with. However, this step can be varied by requiring the statue and supporting structure to be removed ‘from the principal elevation of the dwelling on the Land’, as that would be consistent with the wording of the allegation at paragraph 3 of the notice. This variation will cause no injustice because the notice will be made more precise but no more onerous from the appellant’s perspective.
7. The second step requires the canopy on the front elevation of the dwelling to be restored to its original condition. However, as it is now common ground that the development did not involve any alterations to the canopy, this step is not required. Accordingly, I shall remove this step without causing injustice to either party.

The ground (c) appeal

8. The succeed on an appeal on ground (c) the onus is on the appellant to demonstrate, on the balance of probabilities, that there has not been a breach of planning control.
9. The appellant believes that planning permission is not required for the alleged development, but they have not provided reasons to support view. Nevertheless, it seems to me that a determining factor is whether or not the statue and supporting structure constitute development under s55(1) of the 1990 Act. Operational development is defined in s55(1) as the carrying out of building, engineering, mining, or other operations in, on, over or under land. S55(2) excludes certain operations from the definition of development, including works for the maintenance, improvement or other alteration of any building which only affect the interior or do not materially affect the external appearance of the building. A building is defined in s336 of the 1990 Act as any structure or erection.
10. Relevant case law (*Skerritts of Nottingham v SSET&R (No.2) [2000] P.L.R. 102*) sets out three primary factors, none of which is necessarily decisive, to establish whether, as a matter of fact and degree, a structure is a building. These are size, permanence and physical attachment.
11. The appellant says that the statue is “approximately four feet tall” and is secured to the wall. In the context of the host property, which is a modest terrace house, the statue is relatively large and represents a not insubstantial addition to the building. It is prominently sited on a supporting platform between the two first floor windows on the front wall of the dwelling facing Lee Moor Lane. The statue and supporting platform have a degree of permanence having been in-situ since at least May 2025, seemingly without having been moved. Although there is little evidence before me regarding the method of construction, the presence of the supporting platform affixed to the wall of the house suggests the development involved a degree of assembly and installation and indicates that it is intended to remain in place permanently. Therefore, having regard to size, degree of permanence, and

physical attachment, as a matter of fact and degree, the statue and supporting structure constitute a building operation and operational development.

12. I have also considered whether the works materially affect the external appearance of the property. Given its size and elevated position on the principal elevation of the house, the development is visible from several vantage points along Lee Moor Lane. I find that it does materially affect the external appearance of the property.
13. Based on the evidence before me, there is in no indication that the works would have been permitted development under Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
14. All of the above considered, and on the balance of probabilities, I conclude that the statue and supporting structure require planning permission. No such planning permission has been obtained for the development which therefore constitutes a breach of planning control. Accordingly, the appeal on ground (c) fails.

The ground (f) appeal

15. An appeal on this ground is that the requirements of the notice are excessive.
16. When an appeal is made on ground (f), it is necessary to understand the purpose of the notice. Section 173(4) of the 1990 Act sets out the purposes which an enforcement notice may seek to achieve, either wholly or in part. These purposes are either (a) the remedying of the breach of planning control or (b) remedying any injury to amenity which has been caused by the breach. The requirements of the notice seek the removal of the statue and supporting structure. The purpose of the notice is therefore to remedy the breach of planning control.
17. The appellant is willing to discuss adjusting the position of the statue or adding screening. However, where there is no ground (a) appeal, and the purpose of the notice is to remedy the breach of planning control, as is the case here, any lesser step that would not remedy the breach cannot be accepted through the ground (f) appeal. Allowing the development to remain but in an altered form would not remedy the breach. No details of alternative proposals have been provided for further consideration in any event.
18. There are no obvious alternatives to achieve the purpose of the notice with less cost and disruption. Therefore, the requirements of the notice do not exceed what is reasonably required in order to remedy the breach of planning control. The appeal on ground (f) fails.

Conclusion

19. For the reasons given, I conclude that the appeal should be dismissed and I shall uphold the enforcement notice with a variation.

M Ollerenshaw

INSPECTOR