
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/25/3365512

Land at 197 Park Lodge Lane, Wakefield, WF1 4HY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Talub Hussain against an enforcement notice issued by Wakefield Metropolitan District Council.
- The notice was issued on 8 April 2025.
- The breach of planning control as alleged in the notice is without planning permission, the construction of: 1. 2.5m storey side and rear extension, 2. Single storey rear extension, 3. Rear flat roofed dormer, on the Land.
- The requirements of the notice are to: 1. Demolish the 2.5-metre storey side and rear extension, 2. Demolish the single storey rear extension, 3. Demolish the PVC cladded flat roofed rear dormer, 4. Make good any damage caused to the existing building as a result of steps 1-3 and ensure that all materials used match those in the existing building. 5. Remove from the Land, all material and debris resulting from compliance with the aforementioned requirements of the notice.
- The period for compliance with the requirements is nine months.
- The appeal is proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the Town and Country Planning Act 1990 (as amended).

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a correction and a variation in the terms set out below in the Formal Decision.

Preliminary Matters

1. Although the notice refers to a “2.5m storey side and rear extension”, the Council has confirmed that this reference to a measurement is an error and that it should be a “2.5 storey side and rear extension”. I can correct this minor typographical error without causing injustice because there is no dispute over what the alleged breach of planning control is and it will not prejudice the parties.
2. The Council acknowledges that the reference to the rear dormer being ‘PVC cladded’ in step 3 of the requirements is also incorrect, as the dormer is clad in tiles. This minor error can be corrected without causing injustice to the parties.

The ground (c) appeal

3. To succeed on an appeal on ground (c) the appellant must demonstrate that the matters alleged in the notice do not constitute a breach of planning control. The onus is on the appellant to make out their case, with the relevant test of the evidence being on the balance of probabilities.
4. The appellant contends that the extensions are an amendment to a previously approved application (ref. 20/02138/FUL) for ‘two storey extension to side and rear with single storey extension to rear’ (the 2021 permission). There appears to be no dispute between the parties that the 2021 permission is extant and capable of being implemented, and I have no reason to find otherwise based on the information before me.

5. However, the development as built does not accord with that permission. In particular, the side and rear extension appears to be higher than approved, the side extension features a pitched roof instead of the approved flat roof, a dormer has been built on the rear roof slope, and the window and door openings in the extensions differ from the approved scheme. The appellant sought planning permission for this revised development, but the retrospective planning application was refused¹. As built, the development therefore represents a materially different scheme from that previously approved, and it does not benefit from planning permission.
6. Although the appellant says that the rear dormer constitutes permitted development, there is no evidence before me to demonstrate that it is permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
7. Accordingly, it has not been shown on the balance of probabilities that the alleged development was not a breach of planning control on the date when the notice was issued. Therefore, the appeal on ground (c) fails.

The ground (f) appeal

8. An appeal on this ground is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
9. When an appeal is made on ground (f), it is necessary to understand the purpose of the notice. S173(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.
10. The requirements of the notice seek the demolition of the extensions and the removal of all resulting materials and debris from the Land. The purpose of the notice is therefore to remedy the breach of planning control.
11. As an alternative to demolition, the appellant suggests that the extensions can be modified to comply with the 2021 permission. Should the unauthorised development be demolished and removed entirely, it is likely that the appellant would wish to erect the extensions to accord with the scheme that was permitted under the 2021 permission. Based on the evidence before me, I can see no reason why remedial works could not be carried out to make the extensions accord with that permission, and the Council has not suggested otherwise. This is therefore a realistic fallback position and is an obvious alternative step that can be achieved with less cost and disruption. In these circumstances, requiring the development to be demolished in its entirety is excessive. However, even though it is likely that the appellant will wish to alter the development so that it complies with the permission, the varied notice would still give them the option to demolish it. As the appellant has not demonstrated that the rear dormer does not constitute a breach of planning control, there is no basis for its retention and its removal remains necessary.

¹ Council ref. 22/02400/FUL

12. For the reasons given, I shall vary the notice to give the appellant the option of altering the development so that it complies with the 2021 permission, as a reasonable and less disruptive alternative to demolition. Either option would remedy the breach of planning control in accordance with s173(4)(a) of the Act. No injustice would arise from this variation.
13. Accordingly, the appeal on ground (f) succeeds to this extent.

The appeal on ground (g)

14. An appeal on ground (g) is that the period given for compliance with the notice falls short of what should reasonably be allowed. The notice requires the works to be completed within 9 months. The appellant has not indicated what period of time they consider would be reasonable, but they note that the property is their home and argue that it will take in excess of 9 months to undertake the works and resubmit a planning application for modifications to the development.
15. The works necessary to comply with the notice would be a relatively straightforward matter for an experienced builder and could be completed within 9 months. That period would also be sufficient for a planning application for modifications to the development to be submitted to and determined by the Council, should the appellant decide to submit one. Although I have seen no substantive evidence to indicate that the occupiers would need to secure alternative accommodation elsewhere as a result of the works, it may be that changes are required to their living arrangements. However, 9 months is a reasonable and proportionate timescale in the circumstances. Therefore, the appeal on ground (g) fails.

Conclusion

16. For the reasons given I conclude that the appeal on grounds (c) and (g) fail but that the appeal on ground (f) succeeds. I shall uphold the enforcement notice with a correction and a variation.

Formal Decision

17. It is directed that the enforcement notice be corrected and varied by:
 - The deletion of the words “2.5m storey side and rear extension” in paragraph 3 of the notice and the substitution of “2.5 storey side and rear extension”.
 - The deletion of the wording in paragraph 5 of the notice, in its entirety, and the substitution of the following:
 - A)
 1. Demolish the 2.5 storey side and rear extension, and
 2. Demolish the single storey rear extension, and
 3. Demolish the flat roofed rear dormer, and
 4. Make good any damage caused to the existing building as a result of steps 1-3 and ensure that all materials used match those in the existing building, and

5. Remove from the Land, all material and debris resulting from compliance with the aforementioned requirements of the notice.

OR

B)

1. Carry out remedial works so that the 2.5 storey side and rear extension and the single storey rear extension fully comply with the approved plans and conditions of planning permission reference ref. 20/02138/FUL dated 27 January 2021, and
 2. Demolish the flat roof rear dormer, and
 3. Make good any damage caused to the existing building as a result of steps 1-2 and ensure that all materials used match those in the existing building, and
 4. Remove from the Land, all material and debris resulting from compliance with the aforementioned requirements of the notice.
18. Subject to this correction and variation, the appeal is dismissed and the enforcement notice is upheld.

M Ollerenshaw

INSPECTOR