

Appeal Decision

Site visit made on 21 April 2026

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st June 2026

Appeal Ref: APP/W4705/C/25/3371705

Land at Low Banks, 18 Nursery Road, Bradford, BD7 4LH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Safeel Javed against an enforcement notice issued by City of Bradford Metropolitan District Council.
- The notice was issued on 17 July 2025.
- The breach of planning control as alleged in the notice is: without planning permission, the construction of 3no. dormer window extensions to the north facing elevation and 2no. dormer window extensions to the south facing elevation of the property.
- The requirements of the notice are to:
 - i) Demolish the 3no. dormer window extensions to the north facing elevation of the roof.
 - ii) Re-instate the roof plane of the north facing elevation using materials to match the existing roofline of the host dwelling.
 - iii) Remove the white UPVC cladding applied to the face of the 2no. dormer windows on the south elevation.
 - iv) Replace the materials on the face of the 2no. dormer windows on the south elevation with materials to match the existing roofline of the host dwelling.
 - v) Remove all arising materials from the land.
- OR
 - i) Demolish the 5no. dormer window extensions to the north and south facing elevations of the roof.
 - ii) Re-instate the roof plane of the north and south facing elevations using materials to match the existing roofline of the host dwelling.
 - iii) Remove all arising materials from the land.
- The period for compliance with the requirements is: Four calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeal succeeds to the extent that the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision.

Background

1. Planning permission reference 20/03273/HOU was granted on 15 October 2020 (the 2020 permission), for a roof enlargement with dormer windows to each side (not to the front or rear as described in some documents). The development undertaken fails to accord with the approved plans and conditions subject to the 2020 permission. Consequently, that permission was not lawfully implemented and has now lapsed despite it being undisputed that works commenced within 3 years of the 2020 permission being granted.
2. A subsequent application, reference 24/01852/HOU, seeking retrospective planning permission for the development as built, together with some amendments to the size and external materials of the dormer windows, was refused on 23 July 2024 and was dismissed by appeal reference APP/W4705/D/24/3351735, dated 4th February 2025. These decisions, together with the associated documents and plans I have been provided with copies of, indicate that the 'front' north facing

dormer windows result in unacceptable harm due to their size, position, and external materials, but the south facing dormers would be acceptable subject to the white UPVC cladding being replaced with materials to match the existing roof.

3. The reasons for issuing the notice refer to overlooking due to the absence of obscure glazing. However, the 2024 application and subsequent appeal referred to above, both conclude that there would be no unacceptable overlooking, and that the occupier of the neighbouring property had no objections.

Appeal on ground (f)

4. An appeal on ground (f) is made on the basis that the requirements of the notice exceed what is necessary to either (a) remedy the breach of planning control or (b) remedy any injury to amenity which has been caused by the breach.
5. In this case the enforcement notice does not require the removal of the new steeply pitched roof that has replaced the previous shallow pitched roof, nor does it require the removal of the south facing dormers, which do not accord with the now expired 2020 permission. It requires either the demolition of all the dormer windows, or demolition of the 3 dormer windows in the north facing elevation and alteration of the external materials used in the dormer windows on the south facing elevation. As the outcome of neither of these options would fully address the breach of planning control that has occurred, I consider the purpose of the notice is to remedy the injury to amenity that has been caused by the breach.
6. The south facing dormers, although partially visible from an adjacent public footpath, face into the steep hillside and are less visually prominent in wider views than those on the north facing side of the dwelling. As mentioned above, these south facing windows have previously been found to be acceptable subject to revised materials. The requirements in relation to the south facing dormers are therefore proportionate to the breach and relate reasonably to part of the matters stated in the notice. The appellant is willing to remove the white UPVC cladding from the dormer windows in the south facing elevation and to replace this with materials to match the main roof. I am satisfied that this would remedy the injury to amenity caused by the south facing dormers and would comply with the third and fourth requirements set out in the first limb of the notice.
7. With regard to the north facing dormers, the requirements of the notice are to remove these entirely. This seems somewhat excessive given that the 2020 permission included three dormer windows in this elevation, albeit of smaller scale and finished in matching materials. Whilst I acknowledge that an application in 2024 and a subsequent appeal in 2025 refused planning permission to modify the dormers, these decisions appear to have been made with little regard to what had been approved in 2020. Furthermore, the appeal decision appears to refer to the 'as built' dormers and plans only.
8. The appellant refers to case law¹, which confirms that if there is an obvious alternative that would overcome the breach, at lesser cost and disruption than total demolition, then I must consider it. However, in that case there was a deemed application before the Inspector, which would have enabled the imposition of planning conditions. In some cases, it is possible to use grounds (a) and (f)

¹ *Tapecrown Limited v The First Secretary of State & Anr* [2006] EWCA Civ 1744

together to achieve more than can be gained on ground (f) alone. In this case there is no appeal on ground (a) before me to consider.

9. The appellant also refers to *Mansi v Elstree RDC* [1964] 16 P&CR 153, which related to change of use. In that case the notice went too far by seeking to cease a lawful use that existed prior to the breach of control. It is not comparable to the case before me where no part of the operational development undertaken is lawful, because it does not comply with any planning permission granted.
10. The appellant has suggested reducing the dormer roof heights to achieve a shorter front face, thus reducing the cladded area, narrowing the two outer dormers to 2800mm, thereby reinstating the 1000mm spacing between each dormer, and retaining the middle dormer at its current approved width (2000mm), with only the height requiring adjustment. It is also proposed to use grey tiles, grey fascias and to install smaller windows with grey frames, and to obscure glaze the rear side bedroom window. I do not have detailed drawings of this proposal to compare against the existing, or the previously approved and refused developments, but it seems to me that the appellant's suggestions would result in a development very similar to that previously granted by the 2020 permission.
11. However, in the absence of an appeal on ground (a) I am unable to consider the planning merits of an alternative scheme or to grant a conditional planning permission, to specify approved drawings or external materials. I do not have an amended north facing elevation plan showing the proposed position of the reduced size dormers in the roof or the spacing between them, and the annotated front elevation plan included in the appellant's statement indicates the dormers on the south elevation would also be reduced in height to match the alterations to the north elevation, despite this not being proposed or being a requirement of the notice. Therefore, whilst I have considered varying the steps required by the notice, to reduce the size of the north facing dormers and to amend the external materials they are finished in, I am not satisfied that I can do so with sufficient precision in this case.
12. As the development carried out is different to that previously approved, the 2020 permission was not lawfully implemented, and it has now expired. Consequently, there is no fallback position as suggested, and therefore having had regard to established case law, altering or replacing the north facing dormer windows so that they accord with the previously approved plans is not an option that I can consider in the absence of a ground (a) appeal to grant a fresh planning permission.
13. I acknowledge that the appellant and his wife are registered foster carers and that the total removal of the three north facing dormer windows, even if replaced with roof lights, would have a significant effect on the usable bedroom and bathroom space available. This would disrupt the lives of the foster children especially if bedrooms were lost entirely. I am also advised that the estimated cost of demolishing and rebuilding the dormers would be substantial, although it is unclear what the estimate provided relates to, or how it compares to the cost of the alternative options, which is also likely to be substantial. However, as an appeal on ground (f) relates only to whether the requirements are excessive to remedy the breach or harm identified, I am unable to take account of these other considerations.
14. I therefore conclude the appeal on ground (f) fails.

Appeal on ground (g)

15. An appeal on ground (g) is made on the basis that the period for compliance specified in the notice falls short of what should reasonably be allowed. The period specified in the notice is 4 months. The appellant has requested that this be increased to 12 months to enable funds to be saved and borrowing options explored so that the works can be undertaken without causing disproportionate hardship. Time is also required to book a reputable builder that is able to undertake the required works within the required time, and I accept that this would have been difficult to achieve prior to knowing the outcome of the appeal and the extent of works required.
16. The purpose of the time period within an enforcement notice is to allow for the physical works associated with the notice to be completed, taking into account the private interests of the appellant and the public interest of ensuring compliance with the notice. The appellant's submission largely relates to the time before the works can commence, when funds can be raised, and a contractor can be appointed.
17. Nevertheless, the alterations to the south facing dormers and the removal of the others are works that would need to be carried out by a builder or suitably qualified tradesperson and it is generally accepted that 4 months would not be sufficient time to appoint a suitable builder and for them to complete the required works. I also agree that the works, whilst ongoing would undoubtedly result in some disruption to family life within the dwelling, which is occupied by the appellant, his wife and an unknown number of children/foster children.
18. Having regard to these circumstances, notwithstanding the need to remedy the injury to amenity which has been caused by the breach, the notice does not afford the appellant reasonable time to comply with its requirements. Whilst the appellant has accepted that changes are required and has had some time to save and explore borrowing options during the course of the appeal process, the requirement to undertake all the works within 4 months would place a disproportionate burden on the appellant and his family.
19. I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010 and to the evidence regarding the appellant's family circumstances. Taking this and all other matters into account I conclude that the period for compliance should be extended to 12 months, in the interests of minimising stress and disruption to the family and in the best interests of the children residing at the address. This would also allow time for the appellant to re-apply for planning permission for the smaller dormers previously approved should they wish to do so, and I see no reason why such an application, having been approved previously and being different to the scheme previously refused and dismissed at appeal, would not be considered.
20. A period of 12 months would therefore be a more proportionate response to the breach of planning control and would achieve an appropriate balance between the need to resolve the injury to amenity caused by the breach of planning control and the interests of the appellant and his family.
21. The appeal on ground (g) therefore succeeds.

Conclusion

22. For the reasons given above, I conclude that the requirements of the notice are not excessive to remedy the injury to amenity caused by the breach. However, the period for compliance falls short of what is reasonable. I shall therefore vary the notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

Formal Decision

23. It is directed that the enforcement notice is varied by deleting from paragraph 6 the words “Four calendar months” and replacing them with the words “Twelve calendar months” as the time for compliance with the requirements. Subject to this variation, the appeal is dismissed and the enforcement notice is upheld.

R Bartlett

INSPECTOR