



Appeal Decision

Site visit made on 12 May 2026

by **David Jones BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 June 2026

Appeal Ref: APP/G4620/C/24/3353994

33 Bowstoke Road, Great Barr, Birmingham B43 5DJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Asad Ikram against an enforcement notice issued by Sandwell Metropolitan Borough Council.
 - The notice was issued on 19 September 2024.
 - The breach of planning control as alleged in the notice is the first floor side extension has not been built in accordance with plans approved under DC/22/66719 for first floor side, single storey rear and single storey front extension. The first-floor side extension has been built flush with the front elevation and not setback at the front elevation by 300mm. Furthermore, the roof of the extension has not been lowered from the existing apex of the roof. The set back and step down relate to adopted design guidance, and policies ENV3 (Design Quality) & SAD EOS9 (Urban Design Principles), that were material to the planning decision to ensure satisfactory design.
 - The requirements of the notice are to:
 - (i) Setback the first-floor side extension by 300mm at the front elevation.
 - (ii) Lower the roof height from the apex as per approved drawing number 002 Rev B of planning approval ref: DC/22/66719
 - The period[s] for compliance with the requirements is 10 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
-

Decision

1. It is directed that the enforcement notice is corrected by:

- In section 3 the deletion of the alleged breach of planning control in its entirety and replacement with:

“The breach of condition 1 of planning permission reference DC/22/66719 granted on 29 April 2022 for the “Proposed first floor side, single storey rear and single storey front extension”.

Condition 1 states:

The development must conform with the terms of and the plans accompanying the application for permission and must remain in conformity with such terms and plans, save as may otherwise be required by (any of) the following condition(s), or approved amendment(s).

APPROVED PLANS AND DRAWINGS:

Prop General Layout/Elevation/Roof Plan 002 Rev B

Reason: To ensure that any development undertaken under this permission shall not be otherwise than in accordance with the terms of the application,

on the basis of which permission is being granted, except in so far as other conditions may so require.

There has been a breach of condition 1 because the first-floor side extension has not been set back from the existing front elevation by 300mm, and because the roof of the side extension has not been set below the height of the existing roof as per approved plan 002 Rev B.”

- In section 4 the deletion of paragraph 4.1 in its entirety and replacement with *“It appears to the Council that the above breach of planning control has occurred within the last ten years. The set back and step down relate to adopted design guidance, and policies ENV3 (Design Quality) & SAD EOS9 (Urban Design Principles), that were material to the planning decision to ensure satisfactory design”.*
 - In section 5(i) the insertion of the words *“as per approved drawing number 002 Rev B of planning approval ref: DC/22/66719”* after the word *“elevation”.*
2. Subject to the above corrections, the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matter

3. Since the appeals were lodged, a revised version of the National Planning Policy Framework (“the Framework”) was published in December 2024. I have considered the changes and as they are not material to the appeal development, further comments were not sought. I have, however, determined the appeals having regard to the revised Framework.

The Notice

4. It is important for me to get the notice in order. On an appeal any defect, error, or misdescription in an enforcement notice may be corrected using the powers available in section 176(1)(a) of the Town and Country Planning Act 1990 as amended (“the 1990 Act”), or the terms varied, where the correction or variation will not cause injustice to the appellant or local planning authority.
5. Section 1 of the notice states that the breach of planning control falls under section 171A(1)(b)¹ of the 1990 Act. Planning permission² was granted on 29 April 2022 (“the 2022 permission”) for a *“Proposed first floor side, single storey rear and single storey front extension”* at the appeal property. Despite containing superfluous words, it is clear from the allegation that the notice alleges that the development has not been built in accordance with the approved plans. Condition 1 of the 2022 permission requires the development to be carried out in accordance with plan reference 002 Rev B, which is referred to in the notice.
6. Neither party disputes that the 2022 permission has been implemented and is extant. There is little objective evidence to demonstrate that this was not the case, notwithstanding the deviations from the approved plan in respect of the first-floor side extension. It is clear from the notice that the Council’s concerns relate to the

¹ Section 171A(1)(b) of the 1990 Act: failing to comply with any condition or limitation subject to which planning permission has been granted

² Council Ref: DC/22/66719

first-floor side extension being built flush with the existing front elevation instead of being set back by 300mm, and that the roof of the extension has not been set down from the existing roof ridge.

7. Where an enforcement notice alleges a breach of condition, it should recite the details of the relevant planning permission and condition(s). I shall therefore correct the allegation in section 3 to remove any superfluous words and to specify the failure to comply with condition 1 of the 2022 permission.
8. The last paragraph contained within section 3 of the notice should instead be in section 4, as they relate to the Council's reasons for issuing the notice. Also, the reasons for using the notice should add that the breach of planning control has occurred within the last ten years, as per section 171B(3) of the 1990 Act.
9. I am able to make these corrections, which do not alter the substance of the notice, under the powers transferred to me by section 176(1)(a) of the 1990 Act, without injustice to any party.

Ground (a) – the deemed planning application

Main Issue

10. When an enforcement notice is issued under section 171A(1)(b), the planning application deemed to have been made is to carry out the development subject to the planning permission without complying with the conditions being enforced against. It is clear that the Council is concerned about a breach of condition 1 in relation to the subsequent effects on the character and appearance of the host property and surrounding area.
11. The main issue is therefore the effect of the development as built upon the character and appearance of the host building and surrounding area.

Reasons

12. The appeal property is a semi-detached dwelling located within a predominantly residential area on the eastern side of Bowstoke Road. The property is sat within a relatively modest plot and is set back from the highway with a small driveway to its front.
13. Although the surrounding area is characterised by predominantly semi-detached residential properties, there is variety in the individual design and appearance of those properties. It is further apparent that many have been extended or altered over the course of time. As a result, there is very little uniformity in the appearance of the properties along Bowstoke Road.
14. The 2022 permission provided for a first-floor side extension that included a set back from the existing front elevation of the property, and for the roof ridge of the extension to be set lower than that of the original roof. Instead, the side extension as built is flush with the front elevation of the host property, with its roof ridge continuing at the same height as the existing.
15. The combination of these changes is an extension which is not subservient to the host dwelling. The overall effect is that the extension has a boxy and bland appearance which appears as an incongruous and visually dominant addition, causing harm to the character and appearance of both the host property and

surrounding area. The addition of a porch, or the single storey front extension as shown on the plan approved under the 2022 permission, would also not overcome the harm identified.

16. The appellant has referred me to other dwellings in the vicinity, including 1 Howard Road and 40 Bowstoke Road, which have side extensions which are not set back from the front elevation and/or do not have their roof set lower than the original roof. I do not have the full details of those developments before me, including when they were undertaken and whether planning permission was granted. In any case, I have determined the appeal on its own merits based on the evidence before me.
17. For the reasons given above, I conclude that the development causes harm to the character and appearance of the host property and surrounding area. The development is therefore contrary to Policies ENV3 of the Black Country Core Strategy (adopted February 2011), and Policy SAD EOS9 of the Site Allocations and Delivery Development Plan Document (adopted December 2012). These policies seek, amongst other things, to ensure that developments are of a high-quality design and compatible with their surroundings.

Ground (g)

18. The appeal on ground (g) is that the time given to comply with the requirements of the notice is too short. The notice specifies a compliance period of ten months after the notice takes effect. The appellant argues that the compliance period is insufficient due to financial constraints and instead seeks a period of twelve months.
19. I am mindful that the works required by the notice are fairly significant, as is the likely financial outlay involved for the appellant. However, the appellant does not specify what financial constraints he is under, nor has any information been provided to demonstrate any financial hardship that would justify an extension to the compliance period by an additional two months.
20. Therefore, I consider that the ten month compliance period is reasonable in the circumstances, and it strikes the right balance between the effect of my decision on the appellant and the taking of enforcement action in the wider public interest. Accordingly, the appeal on ground (g) fails.

Conclusion

21. For the reasons given above I conclude that the appeal does not succeed. I have therefore upheld the enforcement notice with corrections, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

David Jones

INSPECTOR