



Appeal Decisions

Site visit made on 14 May 2026

by Richard S Jones BA(Hons), BTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 June 2026

Appeal A Ref: APP/P0119/C/25/3358356

Appeal B Ref: APP/P0119/C/25/3358357

Appeal C Ref: APP/P0119/C/25/3358358

Land at 2 Northwick Road, Pilning, Bristol, BS35 4HF

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - Appeal A is made by Mrs Julie Randell against an enforcement notice issued by South Gloucestershire Council.
 - Appeal B is made by Mr Marc Hewlett against the same enforcement notice issued by South Gloucestershire Council.
 - Appeal C is made by Miss Josie Randell against the same enforcement notice issued by South Gloucestershire Council.
 - The notice was issued on 18 December 2024.
 - The breach of planning control as alleged in the notice is the erection of detached building in the rear garden used as an annex (as shown in the attached photograph).
 - The requirement of the notice is to permanently remove the detached building (used as a residential annex), as identified in the attached photograph, from the land.
 - The period for compliance with the requirement is six months.
 - The appeals are proceeding on the grounds set out in section 174(2)(b), (c), (f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decisions

Appeals A, B and C

1. It is directed that the enforcement notice is varied by the deletion of six months and its substitution with ten months as the period for compliance.
2. Subject to the variation, the appeals are dismissed and the enforcement notice is upheld.

Preliminary Matters

3. The appellants raise concern that the notice is not set out in plain English nor in a format easily interpreted and understood by a lay person, which gives rise to opportunity for misunderstandings and misinterpretation, putting the balance of power with the person(s) producing the report rather than the recipient. They state that without seeking legal advice, at a cost, they cannot truly understand the information presented, leaving them at a disadvantage from the outset.
4. I appreciate that the appellants are not professionally represented but an enforcement notice is a legal document that is subject to statutory requirements. That said, I do not find the notice to be unduly legalistic. The breach of planning control as alleged is the erection of a detached building in the rear garden used as an annex. That is clear and there is no ambiguity as it also refers to a photograph of the building attached to the notice. The requirement of the notice is to

permanently remove the detached building (used as a residential annex), as identified in the attached photograph, from the land. That too is clear and unambiguous.

5. I therefore find that the notice is drafted fairly and specifies with clarity and in plain English what the appellants have done wrong and what they must do to remedy it.
6. I note the objections received from neighbours on matters including living conditions, flood risk and Green Belt. I also note the appellants' submissions relating to personal circumstances, Green Belt, character and appearance, housing need, economic development, public interest verses personal impacts, traffic generation and the references to other developments which have been allowed in the area. On the latter point, the appellants query whether those other approvals amount to a fallback position. They do not. A 'fallback' position indicates what might be done with the land without the express grant of planning permission if an appeal proposal does not go ahead. Other approvals locally are usually argued as precedents.
7. In any event, I am unable to consider any of the above matters, insofar as they relate to the planning merits, as the appeals initially made on ground (a) are barred by virtue of s174(2A) of the 1990 Act. That is because a related application for "the creation of a 1 x 1 bed annex in the rear garden" was dismissed at appeal in September 2024¹. As the main issues identified in that decision relate to the Green Belt, I cannot agree that the appellants have been denied opportunity to make an appeal against matters relating to the same.
8. The appellants refer to a planning refusal on Green Belt grounds and that they find that contradictory and perplexing following a positive email response from the Council to a pre-application submission in January 2020. However, even though payment may have been made for that service, pre-application advice does not amount to a planning permission and cannot pre-empt the democratic decision-making process or a particular outcome, in the event that a formal planning application is made.
9. Nevertheless, I understand and sympathise that the appellants' feel aggrieved and misled in that the Council's response failed to highlight the implications of the site falling within the Green Belt. However, that is a matter which should be pursued directly with the Council, if necessary, through its formal complaints' procedure.
10. Whilst I understand that the appellants may not have proceeded to erect the building if Green Belt was raised as a potential reason for refusal, the decision to proceed without the benefit of planning permission is ultimately at the appellants' own risk.

The Appeals on Ground (b)

11. An appeal on ground (b) is that the breach of control alleged in the enforcement notice has not occurred as a matter of fact. The onus lies with the appellants to make their case on the balance of probabilities.
12. However, no evidence is provided by the appellants to show that the detached annex building was not in place by the date of issuing the enforcement notice.

¹ Appeal Ref: APP/P0119/D/24/3342144

Rather, the case made under ground (b) relates to their grievances over the pre-application response.

13. The Council on the other hand has provided a photograph of a detached building in the rear garden, purportedly taken in December 2023. Moreover, the Inspector for the aforementioned appeal observed at the time of his/her site visit in September 2024 that the development of the annex had already been carried out. The Inspector also noted that the planning application had been submitted retrospectively. Similarly, the Design and Access Statement and Statement of Significance submitted in support of the application refer to a retrospective proposal for the creation of an annex to the rear of the existing property.
14. Therefore, the matters alleged in the notice had plainly occurred by the date of issuing the enforcement notice. The appeals on ground (b) fail.

The Appeals on Ground (c)

15. A ground (c) appeal is that the matters alleged in the notice do not constitute a breach of planning control. Again, the onus lies with the appellants to make their case on the balance of probabilities.
16. Consideration of ground (c) involves a two-stage process: whether the matters constitute 'development' – and, if so, whether the development already benefits from a grant of planning permission.
17. Having regard to its size, permanency and degree of physical attachment, it is more likely than not that the structure in question amounts to a building operation requiring planning permission.
18. The appellants ground (c) case is that the annex should fall under their permitted development rights, as all the building requirements were followed. Although they do not specifically identify which permitted development rights may be applicable, Article 3 and Schedule 2, Part 1, Class E(a) of the GPDO² grant planning permission, subject to limitations, for the provision within the curtilage of the dwellinghouse of any building or enclosure required for a purpose *incidental* to the enjoyment of a dwellinghouse.
19. An incidental use is one which is functionally related to the primary use, so will not be the same as it. Therefore, where, as in this case, the outbuilding is used for the provision of additional living space, it will not be in incidental use. It will be in the same residential use as the main house. Even if the outbuilding itself is described as 'ancillary' to the house, its use will not be.
20. In any case, the Council asserts that the building, due to its size, exceeds the limitations of Class E and no evidence is provided by the appellants to the contrary. The building does not therefore benefit from a grant of planning permission by the GPDO, and as explained, express planning permission has been refused for it at appeal.
21. It is therefore more likely than not, that the erection of the detached building in the rear garden for use as an annex amounts to development that does not benefit from a grant of planning permission. It follows, that the matters alleged in the

² The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended

notice constitute a breach of planning control and that the appeals on ground (c) should fail.

The Appeals on Ground (f)

22. An appeal on ground (f) is that the requirements of the enforcement notice are excessive to remedy the breach of planning control or, as the case may be, the injury to amenity caused by the breach.
23. The breach, as noted, is the erection of a detached building in the rear garden used as an annex, whilst the requirement of the notice is to permanently remove the same. The purpose of the notice must therefore be to remedy the breach of planning control. Accordingly, the appeals on ground (f) can only succeed if it is shown that the steps set out in the notice are excessive for that purpose.
24. The appellants argue under ground (f) that the effect on the Green Belt is minimal whilst the effect on the family is severe, so is not proportionate having regard to the Human Rights Act 1998. It is argued that lesser steps would allow one of the appellants to live in her home.
25. However, human rights considerations do not arise under ground (f). The issue is strictly whether the requirements are excessive to remedy the breach. Although the requirements of a notice should be 'proportionate', within the context of ground (f) that means they should be the minimum necessary to remedy the breach. There is no scope to consider whether the requirements are excessive in terms of their impacts on the individual.
26. Again, I fully appreciate that the appellants are not professionally represented so may not understand the limitations of ground (f), particularly in this case where the ground (a) appeal is barred, such that it is not possible to consider an amended scheme, even if one were proposed.
27. The appellants state that if they had understood ground (f), they could have offered up a list of lesser steps. However, the examples cited, namely removing the building when no longer needed or to change the use of the building, would not remedy the breach of planning control, as the building would remain.
28. The appellants have not shown that there are any other lesser steps that would remedy the breach of planning control and I find that the requirement of the notice tallies and logically follows from the breach and is not excessive for the purposes of remedying the same. The appeals on ground (f) fail.

The Appeals on Ground (g)

29. The ground (g) appeals are that the six months given to comply with the notice is too short considering the costs involved to a young family and an older resident, and also the time taken to instruct a demolition firm and the time of year the notice was issued.
30. The appellant who lives in the outbuilding states that having spent all her savings on the build and fighting her case, she is left with no resources to afford a demolition company so that each section would need to be taken down piece by piece and disposed of by car at the local tip. She says that as an ageing lady with knee problems and low income potential, this would take a significant amount of time and effort. Realistically, she feels she would need three years, or five years to

save sufficient funds to have the work done by someone else. Elsewhere, the same appellant states that she would need at least 18 months to remove the building and to re-home herself.

31. Although I have no financial evidence to corroborate the above, I recognise that the financial consequences of complying with the notice are likely to be very significant to the appellants. However, even an 18-month compliance period is excessive and would be tantamount to granting a temporary planning permission without a corresponding ground (a) appeal and following an appeal decision which has already found the building to be unacceptable.
32. In the circumstances a period of 10 months for compliance would strike a more reasonable and proportionate balance between managing any difficulties the appellants may encounter and the public interest in this case.
33. I note the submissions made that the notice will severely interfere with the appellants' home and family life and is not proportionate. The appellant living in the building states that the enforcement action will make her homeless. In that regard, reference is made to Article 8 of the Human Rights Act 1998 which deals with the right for respect for family life and the home. Those are qualified rights and involve balancing the fundamental rights of the individual against the legitimate interests of other individuals and the wider public interest. The concept of proportionality is crucial.
34. However, human rights are not engaged by legal grounds of appeal (b) and (c), or, as noted, ground (f). Moreover, in this case, the ground (a) appeal is barred. Therefore, whilst I recognise that compliance with the enforcement notice would interfere with the appellants rights as set out in Article 8 of the Human Rights Act, my consideration under ground (g) is essentially restricted to the timescales for that interference.
35. Although questioned by the appellants, there is a clear public interest in enforcing planning law and planning regulation in a proportionate way. In that regard, the Inspector for the previous appeal found that the building would amount to inappropriate development in the Green Belt. Interference with the appellants' qualified rights would therefore accord with the law and be in pursuance of a well-established and legitimate aim, namely, the protection of the Green Belt.
36. In response to the Council's suggestion that the appellant living in the building could live in the main dwelling, that appellant has stated that "I did not confirm that there will be insufficient room in the main residence - nor did I confirm that there would be sufficient room". On that basis it is unclear whether the consequences of complying with the notice would actually result in that appellant being made homeless, as stated.
37. In the circumstances, I am satisfied that the varied 10-month compliance period is both proportionate and reasonable when weighed against any interference with the appellants' human rights and the Green Belt harm identified in the Notice.
38. The appeals on ground (g) succeed to the extent explained.

Richard S Jones

INSPECTOR