



Appeal Decision

Site visit made on 15 June 2026

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 July 2026

Appeal Ref: APP/T0355/C/25/3369837

8 Clare Road, Maidenhead SL6 4DG

- The appeal is made under section 174 of the Town and Country Planning Act 1990, as amended (the Act).
- The appeal is made by Mr Rafaqat Iqbal against an enforcement notice issued by the Council of the Royal Borough of Windsor and Maidenhead.
- The notice was issued on 19 June 2025.
- The breach of planning control as alleged in the notice is 'Without planning permission, the erection of a building with associated patio, walls, steps and covered pergola'.
- The requirements of the notice are to:
 - i. Demolish the building, associated terrace, walls, steps and covered pergola as identified on the appended images marked AJH1.
 - ii. Remove all resulting materials from the land.
- The period for compliance with the requirements: 3 calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Act. 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.

Summary Decision: The appeal is dismissed; the enforcement notice is upheld and planning permission is refused.

Ground (a)

1. The deemed application for planning permission in Ground (a) is for the matters in the alleged breach of planning control, as set out in the 4th bullet point in the banner heading above (the development). The patio has also been referred to as a terrace.

Main issues

2. The main issues are:
 - the effect of the development on the character and appearance of No.8 Clare Road and the area; and
 - its effect on the living conditions of the occupants of No.8 with regard to private outdoor amenity space and on the living conditions of the occupants of No.8 and Nos.6 and 10 Clare Road with regard to outlook.

Character and appearance

3. The property at No.8 comprises a two-storey, mainly brick and tiled pitched roof Victorian or Edwardian end of terrace house with a long back garden sloping up behind the house. It is similar in these regards to neighbouring terraced houses and back gardens in this mainly residential area. A variety of essentially modest sized detached outbuildings, generally towards the upper ends of many of these back gardens, leave intervening parts mostly open and undeveloped, giving a sense of

spaciousness and relief from this close knit arrangement of houses and also with opposing houses and back gardens to the north in Laburnham Road. There is little evidence to suggest other than that the house and back garden at No.8 made a positive contribution to this locally distinctive pattern and layout of residential development in this area, prior to the development pursued by the notice.

4. The building (a detached outbuilding) covers almost all the back garden of No.8, essentially across the entire width with just a narrow corridor between it and the far end boundary. The other end is raised above ground level behind the house, so although single-storey with a flat felt roof, it is at roughly first floor level, with a smaller intervening L-shaped nub. The tall, long rendered elevations are stark and monotonous, with few high level windows or other features along the boundary with each back garden either side. It includes some permanent materials but is basic in structure or fabric, largely conceived to maximise internal space by cascading down the slope of the back garden in a somewhat haphazard manner.
5. A patio and covered pergola at ground level are not unusual or uncommon structures in back gardens. But at No.8 the patio is a raised terrace with the covered pergola on part of it and both structures are elevated a similar distance above the rear of the house on a plinth, which must be accessed by the steps up from ground level at the back of the house (as must be the building). The stepped perimeter wall of the terrace on one side is correspondingly much taller than a conventional wall or fence between two back gardens and is in effect a continuation of a side elevation of the building. There is little evidence to suggest other than that these associated works were carried out as a single composite act of development with the building.
6. As a result, the building is unsympathetic in this location by virtue of indifferent design and materials and is excessive in scale, bulk and massing. This renders it manifestly out of keeping with prevailing features of No.8 and nor is it sufficiently subordinate in form to this house. It is also out of kilter in these regards with neighbouring houses and nearby outbuildings and overly cramped in relation to garden boundaries, the house at No.8 and neighbouring houses or outbuildings. Despite the terrace, which is quite small and partly covered, the building consumes nearly all of what was a more open back garden and prevents meaningful soft landscaping beyond planters on the terrace and tops of the walls. Together with the terrace, walls, steps and pergola, it results in a grossly overdeveloped site.
7. Consequently, though only glimpsed in part in public views, through a gap between two blocks of terraces, the negative presence of the building and associated terrace, walls, steps and covered pergola cause significant innate harm to the character and appearance of No.8 and the area. This can also be noticed and observed as such by those who live in neighbouring houses. The development is therefore contrary to Policy QP3 of the Borough Local Plan, February 2022 (BLP). This policy includes that development should be high quality design that respects the local character of the environment having regard to urban grain, layout, density, height, scale, bulk, massing, proportions, enclosure, materials and landscaping.

Living conditions

8. Because the development takes up almost the entire back garden, the terrace provides the only useable private outdoor amenity space. But it is only about 25sqm in area, L-shaped and paved. Some of it is taken up by seating and a table

covered by translucent pergola roof sheeting and much of the rest is an access route to the building. It also faces northwest behind No.8 so is overshadowed by this house for some of the day. Although the appellant considers it sufficient and low maintenance, the terrace is not conducive in size, siting, shape or surfacing for some normal domestic use and activity in a family sized house, such as all forms of children's play or gardening. The appellant will not, anyway, always live here.

9. The Council's relevant design guidance¹ stipulates a minimum 65sqm north facing outdoor amenity space for a 3-bedroom house such as No.8. I accept that this figure may not need to be met or can be met in all cases. But the shortfall of some 40sqm in this appeal is substantial alone. It is also significant given the constraints that apply to the small area of terrace that is provided.
10. The building or the associated terrace, walls and covered pergola are in overly close proximity to ground or first floor rear facing habitable room windows of No.8, similar windows at the neighbouring houses at No.6 and No.10 Clare Road and these adjoining back gardens. The sheer unexpected and overbearing immediate presence of this development results in an uncomfortable sense of enclosure which is visually intrusive in relation to the adjoining back gardens. It also appreciably restricts views from all three houses and back gardens in directions towards it.
11. Consequently, the development causes appreciable harm to the living conditions of the occupants of No.8 with regard to private outdoor amenity space and to the living conditions of the occupants of No.8 and Nos.6 and 10 with regard to outlook. It is therefore contrary to BLP Policy QP3. This policy includes that development should provide a sufficient level of high quality private amenity space and have no unacceptable effect on the amenities of the occupants of adjoining properties in terms of disturbance (to outlook in this case). It also conflicts with Principle 8.4 of the Council's design guidance given the notable shortfall of outdoor amenity space.

Other matters

12. With regard to caselaw put to me², I accept that after complying with the requirements of the notice, there is a real prospect the appellant could provide an outbuilding and a hard surface in the back garden using Class E and Class F permitted development rights in the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO)³.
13. However, considering the relevant conditions and limitations of Class E, there is little evidence, including plans of any specific scheme, that a new outbuilding would cover the same or even similar area of back garden as the building. Nor that the difference between the two would simply be length, given the significant height above adjoining ground level and close proximity of the appeal building to boundaries of the curtilage of the house. Moreover, the terrace is not simply a hard surface at original ground level. Consequently, because the building and terrace are significantly more extensive structures, the fallback development is not directly comparable, so this consideration has limited weight in support of the appeal.
14. The Council referred me to a planning appeal dismissed in March 2025, which I have had due regard to. As I understand it, it was for essentially the same

¹ Borough Wide Design Guide, June 2020

² *Mansell v Tonbridge and Malling BC & others* [2017] EWCA Civ 1314, *Gambone v Secretary of State for Communities and Local Government* [2014] EWHC 952 (Admin), *Burge v SSE* [1988] JPL 487

³ Article 3(1), Schedule 2, Part 1

development at No.8 as pursued by the notice⁴. While there is little to suggest that circumstances have changed materially since, I have considered ground (a) on the individual planning merits of the development. I am also satisfied that conditions suggested by the appellant could not overcome the fundamental adverse impacts set out in the main issues above.

15. It was for the Council to decide if it was expedient to take enforcement action, including having regard to the Human Rights Act 1998, as amended.

Planning balance and conclusion

16. I acknowledge that the development is valued by the appellant as part of living at No.8. But as a largely personal preference, this private benefit has little weight in support of the appeal. The absence of objection to the development from the occupants of neighbouring houses is a neutral factor in my decision. Set against this, there is harm to the character and appearance of the area and to living conditions. Both of these considerations carry significant weight against the appeal.
17. There are no other considerations to indicate that ground (a) should be determined otherwise than in accordance with the development plan taken as a whole⁵. Consequently, for the reasons given above, the erection of a building with associated patio, walls, steps and covered pergola is unacceptable and planning permission should not be granted. Accordingly, ground (a) fails.

Ground (f)

18. For ground (f) to succeed, the appellant must demonstrate 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 the breach of planning control (BPC).
19. The notice refers to some amenity considerations but these are part of the reasons why the Council issued the notice. Taken with the requirements, the notice clearly seeks to remedy the BPC under section 171A(1) of the Act. Sections 173(3), (4)(a) and (5) provide that the steps required to be taken can include restoring land to its condition before the breach took place by the removal of any building or works. The requirements of the notice are integral to remedying the BPC and the Council does not seek to under-enforce.
20. With due regard to caselaw put to me⁶, I acknowledge that planning enforcement should be remedial, not punitive. I also accept that altering the development in the manner suggested in ground (f) would be at less cost and disruption to the appellant. But the appellant's case on ground (f) is essentially the fallback in ground (a). It is not straightforward and would not be simple to frame requirements in the notice with sufficient precision for the appellant to know what to do. It would, anyway, be a materially different development in extent or detail to the matters pursued by the notice, so would not remedy the BPC. Moreover, altering the development in the manner suggested would not make it permitted development because Article 3(5)(a) of the GPDO does not grant planning permission retrospectively for unlawful development. No other lesser steps were advanced and there is no other apparent obvious alternative before me.

⁴ APP/T0355/D/24/3358252

⁵ Section 38(6) – Planning and Compulsory Purchase Act 2004, as amended

⁶ *Lough & Others v FSS* [2004] 1WLR 2557; *Makanjuola v SSCLG & Waltham Forest LBC* [2013] EWHC 3528 (Admin); *Ioannou v SSCLG & Enfield LBC* [2014] EWCA Civ 1432

21. In these circumstances, the steps required by the notice to be taken are consistent with remedying the BPC so are necessary, proportionate and not excessive. For these reasons ground (f) fails.

Ground (g)

22. For ground (g) to succeed, the appellant must demonstrate that the 3 calendar month period specified in the notice to take the steps required by it falls short of what should be reasonably allowed.
23. I have not been informed how long it took to establish the development. Although reasonably extensive it could be demolished and removed piecemeal. Such work is routinely undertaken by builders using standard equipment and there is little evidence it would need many workers or take an inordinate amount of time. There is also no apparent reason why on-street parking bays could not be secured for contractor vehicles or equipment without causing undue obstruction and disturbance to neighbours or all road users. Convenient external access, along the side of the house, to the back garden means disruption to internal living conditions for the occupants of No.8 would be limited.
24. There is, therefore, little to suggest that finding a suitable contractor would take an inordinate amount of time, nor that this work could not also then be completed within the 3 month period. Furthermore, there is little evidence to justify the 'at least' 12 month period sought by the appellant. It would be tantamount to an unwarranted temporary planning permission and unduly perpetuate harm to the character and appearance of the area and to living conditions. While the Council has discretion under section 173A(1)(b) of the Act to extend the period for compliance, this would be a matter for the relevant parties. The period in the notice must be sufficient to begin with in relation to the requirements.
25. Consequently, on the evidence before me, the 3 calendar month period in the notice to take the steps required by it does not fall short of what should reasonably be allowed. Accordingly, ground (g) fails.

Overall Conclusion

26. Grounds (a), (f) and (g) all fail, so the appeal does not succeed.

Formal Decision

27. The appeal is dismissed and the enforcement notice is upheld. Planning permission is also refused on the application deemed to have been made under section 177(5) of the Act.

Robin Buchanan
INSPECTOR