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## Appeal Decision

Site visit made on 23 June 2026

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 July 2026

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**Appeal Ref: APP/N1920/C/25/3362555**

**1 Heath Drive, Potters Bar, Hertfordshire EN6 1EN**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
  - The appeal is made by Mrs Flavia Rizzo against an enforcement notice issued by Hertsmere Borough Council.
  - The notice was issued on 13 February 2025.
  - The breach of planning control as alleged in the notice is without planning permission, the erection of a structure forward of the principal elevation of the property and the replacement of the windows on the property.
  - The requirements of the notice are: 1. Remove the unauthorised storage shed from the principal elevation of the property. 2. Restore the original windows to the property, as they existed prior to the unauthorised works. 3. Remove all associated waste and debris resulting from compliance with the above steps, from the premises.
  - The period for compliance with the requirements is six months.
  - The appeal is proceeding on the grounds set out in section 174(2)(b) and (c) of the Town and Country Planning Act 1990 (as amended). Since the prescribed fee has not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act has lapsed.
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### Decision

1. It is directed that the enforcement notice is corrected by:
  - In paragraph 3 ('the matters which appear to constitute a breach of planning control') deleting '*..and the replacement of windows on the property (the unauthorised developments)*';

and varied by :

- In paragraph 5 ('what you are required to do') deleting step 2 and renumbering step 3 to step 2.

Subject to the correction and variations, the appeal is dismissed and the enforcement notice is upheld.

### Preliminary matters

2. The appeal was initially made on ground (b)- '*that those matters* (i.e., the matters stated in the enforcement notice) *have not occurred.*' However, the appellant made points in their written submissions relevant to ground (c)-'*that those matters do not constitute a breach of planning control.*' Consequently, after seeking comments from the main parties I shall deal with the appeal as if it had also been made on ground (c). There would be no unfairness, as the Council have been afforded an opportunity to comment on the hidden ground of appeal.
3. Since no appeal has been made on ground (a) and the relevant fee has not been paid, planning merits considerations, including whether the matters stated in the notice preserve or enhance the Potters Bar Darkes Lane (West) Conservation

Area, cannot form part of my deliberations. Nor can matters relating to the Council's enforcement investigation be taken into account.

### **Ground (b) and (c) appeals**

4. The burden of proving why the appeal should succeed on ground (b), or failing that on ground (c), rests firmly with the appellant, the relevant test of the evidence being on the balance of probability. These grounds of appeal are strictly concerned with matters of fact and law.
5. The appeal property is a detached two-storey dwelling, stood in spacious grounds. The allegation in the notice includes the erection of a structure forward of the principal elevation of the property. A flat roofed, freestanding residential outbuilding of modest scale is stood forward of the principal elevation of the dwelling, adjacent to the street.
6. The appellant claimed that the outbuilding had already existed prior to their purchase of the property in December 2019 but was concealed from view by dense vegetation. They asserted that the structure had merely been repaired and rendered.
7. The Council supplied a number of photographic images of the property, most likely taken during 2019, together with aerial photographic images extracted from Google Earth purportedly taken on 3 August 2022. The density of vegetation at the front of the property, along with the associated shadows cast, could perhaps explain why a built feature similar in terms of its scale and siting to the outbuilding is not readily visible in those images.
8. Be that as it may, the appellant supplied little firm evidence to show that the works undertaken in relation to the outbuilding merely involved maintenance of and repairs to an existing structure. The scale and magnitude of the works that were carried out are consequently unclear. Substantially rebuilding the external walls of a structure and replacing its roof would, in all likelihood and as a matter of fact and degree, go beyond works of maintenance and repair, being tantamount to the erection of a new building.
9. There are few indications in the external appearance of the outbuilding to support the claim that it was already present prior to the property being purchased by the appellant. The freshness of all the external wall and roof finishes and the absence of any significant weathering point more towards the outbuilding having been erected relatively recently. Accordingly, based on the available evidence and in the particular circumstances of this case, I find the appellant's claim unconvincing.
10. The notice also alleges the installation of replacement windows at the property. The appellant accepted that the UPVC windows previously installed have been replaced with new UPVC windows.
11. Therefore, the appellant has been unable to show to the required standard that the matters stated in the notice have not occurred and the ground (b) appeal must fail.
12. Turning now to the ground (c) appeal. Erection of the outbuilding and installing the replacement windows has involved works falling within the definition of development set out in s55(1) of the Act. Planning permission is required for the development of land, having regard to s57(1) of the Act.
13. Dealing firstly with the outbuilding. The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the GPDO) grants planning permission in Article 3(1), Schedule 2, Part 1, Class E, paragraph E.(a) for the provision within the curtilage of a dwelling of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwelling as such, or the maintenance, improvement or other alteration of such a building or enclosure.

14. The permission granted by Class E is subject to none of the limitations set out in paragraph E.1 being exceeded. Paragraph E.1(c) provides that no part of the building, enclosure, pool or container should be situated forward of a wall forming the principal elevation of the original dwelling. The outbuilding exceeds this limitation on account of its siting and so cannot be permitted by Class E.
15. Development which exceeds any of the limitations of Class E cannot benefit from the permission granted by the GPDO. Nor was any grant of express planning permission for erection of the outbuilding following submission of a planning application to the Council drawn to my attention. The definition of a breach of planning control set out in s171A(1)(a) of the Act includes carrying out development without the required planning permission.
16. Moving on to the replacement windows. The GPDO grants planning permission in Class A of Part 1 for the enlargement, improvement or other alteration of a dwelling. The permission granted by Class A is subject to none of the relevant limitations in paragraphs A.1 and A.2 being exceeded and none of the relevant conditions in paragraphs A.3 and A.4 being breached.
17. Installing the replacement windows did not exceed any of the relevant limitations in Class A or breach any of the relevant conditions therein and so benefits from the permission granted by the GPDO. The Council confirmed that no Direction had been made pursuant to the GPDO at Article 4(1) which restricted the installation of replacement windows, otherwise permitted by Class A, unless express planning permission has firstly been obtained. Accordingly, installation of the replacement windows does not constitute a breach of planning control.
18. The consequences of the above findings are that whilst the appellant has been unable to show to the required standard that erection of the outbuilding does not constitute a breach of planning control, the ground (c) appeal succeeds in part in relation to installing the replacement windows. Therefore, it is necessary for me to exercise the power in s176(1) of the Act to correct any defect, error or misdescription in the notice, or to vary its terms, by deleting reference in the allegation to the replacement of windows on the property, with corresponding variations to the requirements, prior to dismissing the appeal and upholding the notice.

## **Conclusion**

19. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and variations.

*Stephen Hawkins*

INSPECTOR