



Appeal Decision

Site visit made on 23 June 2026

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 July 2026

Appeal Ref: APP/N1920/C/25/3360812

24 Burghley Avenue, Borehamwood WD6 2JF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Jetmir Cufa against an enforcement notice issued by Hertsmere Borough Council.
 - The notice was issued on 30 January 2025.
 - The breach of planning control as alleged in the notice is without planning permission, [the] erection of an outbuilding with [a] raised platform.
 - The requirements of the notice are: 1. Demolish the outbuilding and raised platform [in the] approximate position indicated blue on the plan attached to the notice. 2. Remove from the land the debris, items, fixtures and fittings, building materials, plant and machinery resulting from compliance with step 1. Or: 3. Carry out remedial work to [the] outbuilding and raised platform [in the] approximate position indicated blue on the attached plan ensuring the outbuilding is in full compliance with Class E Schedule 2 Part 1 [of the] Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) -You must carry out the following action but not limited to:- Remove the raised platform constructed with the outbuilding or reduce to height of no more than 0.3m from the natural ground level; - Reduce the height of the outbuilding to no more than 2.5 metres from the natural ground level. 4. Remove from the land the debris, items, fixtures and fittings, building materials, plant and machinery resulting from compliance with step 3.
 - The period for compliance with the requirements is three 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 the breach of planning control') deleting '*with raised platform*';

and varied by:

- In paragraph 5 ('what you are required to do') deleting '*and raised platform*' in steps 1 and 3, also deleting '*remove the raised platform constructed with the outbuilding or reduce to height of no more than 0.3m from the natural ground level*'.

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

Preliminary Matter

2. No appeal has been made on ground (a) and the relevant fee has not been paid. Therefore, planning merits considerations can form no part of my deliberations.

Ground (b) and (c) appeals

3. The ground (b) appeal is that the matters stated in the enforcement notice have not occurred. The ground (c) appeal is that those matters (i.e., the matters stated in the notice), if they occurred, do not constitute a breach of planning control. These grounds of appeal are strictly concerned with matters of fact and law. The burden is firmly on the appellant to show why their appeal should succeed on ground (b), or failing that on ground (c), the relevant test of the evidence in both grounds of appeal being on the balance of probability.
4. The appeal property contains a two-storey, semi-detached dwelling. The enforcement notice alleges that an outbuilding with a raised platform has been erected at the property. A freestanding residential outbuilding is located towards the end of the rear garden. A level platform extends outwards from the front elevation of the outbuilding, as well as to its sides and rear. The finished surface level of this platform is raised above ground level. Therefore, the matters stated in the notice have occurred and the ground (b) appeal must fail. Whether erecting these structures constitutes a breach of planning control is a matter for the ground (c) appeal, to which I now turn.
5. Erection of the structures has involved carrying out building operations 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.
6. The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)(the GPDO), grants planning permission at 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. The planning permission granted by Class E is subject to the relevant limitations set out in paragraphs E.1 to E.3 not being exceeded.
7. The limitation in paragraph E.1(e)(ii) provides that development is not permitted by Class E if the height of the building exceeds 2.5 metres where, as in this appeal, it is situated within 2 metres of the boundary of the curtilage of the dwelling. Article 2(2) of the GPDO provides that the height of a building is to be measured from ground level, meaning the level of the surface of the ground immediately adjacent to the building or, where the level of the surface of the ground on which it is situated is not uniform, the level of the highest part of the ground adjacent to it.
8. Works have been undertaken at the property to level off and lower the surface of the ground in the rear garden. However, it is the level of the ground which is alongside the rear boundary of the property that is the highest part of the ground adjacent to the outbuilding. From that ground level, the main parties measured the outbuilding as being approximately 2.77 metres in height. Accordingly, the outbuilding exceeds the maximum height limit in paragraph E.1(e)(ii) by around 0.27 metres.
9. There is no dispute that the outbuilding is required for a purpose incidental to the enjoyment of the dwelling as such and that it meets the other relevant size and locational imitations in paragraph E.1, whilst paragraphs E.2 and E.3 do not apply in this instance. Having undertaken my own assessment, there is no sound reason why I should find otherwise. However, the GPDO only grants planning permission

where all the relevant limitations in Class E are met. If development exceeds any of the limitations in Class E, the whole development is unauthorised. As the height limit in paragraph E.1(e)(ii) is expressed precisely, there is no scope for a 'de minimis' infringement. To my knowledge, there has been no grant of express planning permission for the outbuilding following the submission of a planning application to the Council. The definition of a breach of planning control in s171A(1)(a) of the Act includes carrying out development without the required planning permission.

10. The limitation in paragraph E.1(h) provides that development is not permitted by Class E where it would include the construction or provision of a veranda, balcony or raised platform. The interpretation set out in Part 1 at paragraph I states that 'raised' in relation to a platform means a height greater than 0.3 metres. From the level of the ground alongside the rear boundary, i.e. the highest part of the adjacent ground, the platform surface stands only slightly above ground level. The height above ground level is considerably less than 0.3 metres. As a result, the platform is not 'raised' for the purposes of paragraph E.1(h).
11. Since the platform is not raised it falls to be considered against Part 1, Class F, which grants planning permission for the provision within the curtilage of a dwelling of a hard surface for any purpose incidental to the enjoyment of the dwelling as such. As the limitation and conditions set out in paragraphs F.1 and F.2 do not apply in this instance, in my view the platform benefits from the planning permission granted by Class F.
12. 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 the platform. 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 a raised platform, with corresponding variations to the requirements, prior to dismissing the appeal and upholding the notice.

Conclusion

13. 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