



Appeal Decision

by S A Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th July 2026

Appeal Ref: APP/C3240/C/25/3363355

Land at Kebab King, 34 High Street, Madeley, Telford TF7 5AS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Sevki Aribas (Kebab King - Madeley) against an enforcement notice issued by Telford and Wrekin Council.
 - The notice was issued on 6 March 2025.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a side and rear timber extension on the Southern and Western elevations of the property.
 - The requirements of the notice are to:
 1. Remove from the land permanently, the side and rear timber extension positioned on the Southern and Western elevations of the property.
 2. Remove all materials to an authorised disposal site arising from the works to comply with requirement 1.
 - The period for compliance with the requirements is 4 (four) months.
 - The appeal is proceeding only on the grounds set out in section 174(2)(d) and (g) of the Town and Country Planning Act 1990 (as amended) ("the Act").
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. There is no appeal on ground (a) therefore an application for planning permission has not been made. Consequently, it is not for me to consider the planning merits of the development and whether planning permission should be granted. In these circumstances, a site inspection was not required. The parties were informed of my decision not to visit, and I consider that neither appeal party has been prejudiced by me proceeding in this manner.

Ground (d)

3. Although no formal ground (d) appeal was submitted, the appellant states that the timber extension is a non-permanent wooden building which has been present since 1 April 2021. I therefore consider these representations to amount to a hidden ground (d) appeal, namely that, at the date the enforcement notice was issued, the time for taking enforcement action had already expired. Both parties were notified of this possibility and given an opportunity to comment, and I am satisfied that neither party has been prejudiced by my determining the matter on this basis
4. The alleged breach of planning control comprises the erection of a side and rear timber extension and therefore constitutes operational development. The burden of proving immunity rests with the appellant and the relevant test is the balance of probabilities.

5. Section 115 of the Levelling-up and Regeneration Act 2023 amended section 171B of the Act by extending the enforcement period for operational development from four years to ten years. However, transitional provisions preserve the former four-year period where the unauthorised operational development was substantially completed before 25 April 2024. The appellant's case is that the extension was completed by 1 April 2021. Accordingly, if that contention is correct, the former four-year limitation period applies and must be considered in this appeal.
6. The enforcement notice was issued on 6 March 2025. Applying the four-year period, the appellant must therefore demonstrate, on the balance of probabilities, that the extension was substantially completed on or before 6 March 2021. That is the material date for the purposes of this ground of appeal.
7. Following identification of the hidden ground (d) appeal, the appellant was invited¹ to provide further evidence in support of their claim that the development was immune from enforcement action. No further representations or supporting evidence was received. In particular, no dated photographs, invoices, contractor records, receipts for materials, statutory declarations, business records, or other documentary evidence have been provided from which the date of substantial completion could be established.
8. The only evidence before me is the appellant's assertion that the extension was present from 1 April 2021. Even if I were to accept that statement at face value, a completion date of 1 April 2021 would fall after the material date of 6 March 2021. Consequently, the appellant's own case would not establish four years' immunity before the notice was issued.
9. In the absence of evidence to support the ground (d) appeal, I find that the burden of proof has not been discharged. I therefore conclude that the development had not become immune from enforcement action when the notice was issued.
10. Consequently, the appeal on ground (d) fails.

Ground (g)

11. The appeal under ground (g) is that the period for compliance specified in the notice, in accordance with section 173(9) of the Act, falls short of what should reasonably be allowed. The purpose of a ground (g) appeal is to determine whether the time allowed for compliance is reasonable in all the circumstances.
12. The notice requires the permanent removal of the side and rear timber extension and the removal of all resulting materials from the land. The works involve demolition of a relatively simple timber structure and the clearance of associated waste. There is no substantive evidence before me to indicate that the works would be unusually complex, require specialist construction techniques, or be subject to constraints that would significantly prolong their completion.
13. The appellant has requested that the compliance period be extended from four months to eight months. However, no detailed explanation or supporting evidence has been provided to demonstrate why a prolonged period is deemed necessary. In particular, there is no information regarding contractual commitments, operational requirements of the business, difficulties in securing contractors, or

¹ Email dated 28 January 2026

any other exceptional circumstances that would justify a substantially longer period.

14. Having regard to the nature and scale of the unauthorised development, I am satisfied that four months would provide sufficient opportunity to arrange any necessary contractors, undertake the required demolition works, and remove the resulting materials from the site. Consequently, I conclude that the compliance period specified in the notice does not fall short of what should reasonably be allowed.
15. The appeal on ground (g) therefore fails.

S A Hanson

INSPECTOR