



Appeal Decision

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 September 2026

Appeal Ref: APP/X4725/C/25/3371510

Land at 25 Milton Street, Wakefield WF2 8TL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Wajid Ali against an enforcement notice issued by Wakefield Metropolitan District Council.
 - The notice was issued on 17 July 2025.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a three-storey extension and alterations to the roof.
 - The requirements of the notice are to:
 - 1 Demolish the rear three storey extension.
 - 2 Make good any damage caused to the existing building as a result of step 1 and ensure that all materials used match those in the existing building.
 - 3 Demolish the enlargement of the original roof and reinstate the roof profile back to its original design, colour and materials used.
 - 4 Remove from the Land all materials and debris resulting from compliance with the aforementioned requirements of this notice.
 - The period for compliance with the requirements is 12 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is varied by:
 - 1) Deleting requirements 1, 2 and 3 in section 5 and replacing them with the following requirements:
 1. Demolish the rear three storey extension and the enlargement of the original roof.
 2. Restore the property to its condition before the breach of planning control took place.
 - 2) The consequential renumbering of requirement 4 to 3.
2. Subject to the variations, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

3. The appellant previously submitted a planning application for the erection of a three-storey rear extension, alterations to the existing roof and conversion to form a hostel (sui generis) which was refused by the Council and subsequently dismissed on appeal (APP/X4725/W/25/3371719).
4. Following my review of the submissions, I wrote to the Council and asked whether, based on the reasons for issuing the notice, the allegation should have included the use of the entire building as a hostel. In broad terms, their response was that it was

not necessary. They suggested I delete paragraphs 4(1) and 4(3) of the notice however, it is rarely appropriate to correct the reasons for issuing a notice, and I see no reason to do so. The appellant was given the opportunity to comment on this matter, but no response was received.

5. The appellant's case under ground (f) is that the extensions house tenants with long term agreements who would require rehousing, and alternative accommodation cannot be provided within the time frame. Moreover, that any enforcement action should await the outcome of the appeal decision, referenced above. These arguments are pertinent to the appeal on ground (g) which is where I have considered them.
6. In reviewing the file, it appeared that the appeal could be determined without a site visit – without causing prejudice to any party. This is because the parties have submitted sufficient evidence to understand the nature of the site given the grounds of appeal and points in dispute.

The appeal on ground (f)

7. An appeal on ground (f) is a claim that the requirements of the notice exceed what is necessary to remedy the breach of planning control, or, as the case may be, to remedy any injury to amenity resulting from the breach.
8. The notice requires that the three-storey extension and roof enlargement are demolished and in short that the property be returned to its condition before the breach took place. Accordingly, its purpose is to remedy the breach of planning control.
9. The scope of an enforcement notice is limited by section 173(4)(a) and (b) of the Act, such that the recipient cannot be required to undertake works that would go beyond remedying the breach. No matter how the works are specified, the most that they can achieve is compliance with a planning permission or restoration of the land to its previous condition.
10. Providing that the extension and roof enlargement are demolished and the property restored to its previous condition that would comply with the purpose of the notice. Consequently, I consider the requirement that all materials match those used in the existing building is excessive, since the materials may not have previously matched.
11. Moreover, there is ambiguity in the term 'original' in the context of restoration, since this could mean in the property as first built, which may not be what existed prior to the breach taking place. However, the requirements can be varied, as set out in my decision above.
12. The appellant did not suggest any lesser steps. Since the requirements, as varied, would do no more than to seek to achieve the purpose of the notice, to remedy the breach of planning control, they are not excessive. The ground (f) appeal succeeds to the extent set out.

The appeal on ground (g)

13. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant stated 12 months is insufficient time to find alternative rental accommodation for existing tenants as there is a lack of similar

accommodation in the Wakefield district. They did not however, suggest an alternative period.

14. Where an appeal is made against an enforcement notice, regardless of the grounds, the appeal 'stops the clock' and the period for compliance does not start until the date of the appeal decision. Therefore, the appellant has 12 months from the date of this decision to comply with the notice.
15. It appears that rooms in the extension may be occupied. However, in the absence of substantive details about the availability of alternative accommodation or the terms of the tenancies held by any current occupants, particularly in relation to matters such as the notice periods, I consider the period of 12 months to be reasonable and proportionate. The appeal on ground (g) fails.

Conclusion

16. For the reasons given above, I conclude that the requirements of the notice are excessive to remedy the breach of planning control. I shall vary the enforcement notice prior to upholding it. The appeal on ground (f) succeeds to that extent.

Felicity Thompson

INSPECTOR