
Appeal Decision

Site visit made on 25 August 2026

by **D Boffin BSc (Hons), DipTP, MRTPI, DipBldg Cons (RICS), IHBC**

an Inspector appointed by the Secretary of State

Decision date: 16 September 2026

Appeal Ref: APP/G4620/C/25/3371468

50 Parsons Hill, Oldbury B68 9BS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the 1990 Act).
 - The appeal is made by Ms Pamela Brazier against an enforcement notice (EN) issued by Sandwell Metropolitan Borough Council.
 - The EN was issued on 23 July 2025.
 - The breach of planning control as alleged in the EN is: The erection of a two-storey side and rear extension built without planning permission in that the side extension has not been set-back at the first-floor level, contrary to plans approved under planning permission reference DC/23/68921 and DC/24/69086. The first-floor rear elevation includes a glazed door which is contrary to plans approved under planning permission reference DC/23/68921 and DC/24/69086.
 - The requirement of the EN is: Remove the two-storey side and rear extension.
 - The period for compliance with the requirements is: 9 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the 1990 Act.
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Decision

1. It is directed that the enforcement notice is corrected by:

- The deletion of the words 'DC/23/68921' and their substitution with 'DC/23/68291' within the description of the alleged breach of planning control;

And varied by:

- the deletion of the wording of the requirement in section 5 and its substitution with the words

"Either:

1. *Remove the two-storey side and rear extension*

Or:

2. *Modify the two-storey extension to comply with the terms of the planning permission (ref: DC/24/69086) dated 20 March 2024, with regards to the set back of its first floor from the front elevation of the dwellinghouse, the ridge height of its roof and the fenestration of its first-floor rear elevation, including the conditions subject to which that permission was granted."*

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

Applications for costs

3. Applications for costs were made by both main parties. These applications for costs are the subject of a separate decisions.

Preliminary Matters

4. On an appeal any defect, error, or misdescription in an EN may be corrected using the powers available in section 176(1)(a) of the 1990 Act, or the terms may be varied, where the correction or variation will not cause injustice to the appellant or local planning authority. The Council has indicated that one of the planning application references 'DC/23/68921' within the description of the alleged breach of planning control is incorrect and it should be DC/23/68291. As this is a minor error there would be no injustice in correcting the reference number and I will make that correction.

The ground (f) appeal

5. Section 173(4) of the 1990 Act sets out the purposes which an EN may seek to achieve. They are either (a) remedying of the breach of planning control or (b) remedying any injury to amenity which has been caused by the breach. The appellant's ground (f) appeal relates to the planning permissions that were approved by the Council and that those permissions could be reverted back to.
6. The EN does not specify which of the two purposes it seeks to achieve. Nonetheless, in requiring the removal of all the unauthorised development it is evident that the Council seeks to remedy the breach. As a result, and in the absence of an appeal on ground (a) as set out in section 174(2) of the 1990 Act and a deemed planning application, the power available to me under section 176(1) of that Act only relates to whether the requirements exceed what is necessary to remedy the breach.
7. However, in cases where there is an extant planning permission the breach of planning control could also be resolved by the development being altered to comply with the terms and conditions of that planning permission. In this case planning permissions for '*proposed two/single storey side/rear extensions with new front porch and alterations to front canopy*' were granted in July 2023 and March 2024¹. Given the location of the developments proposed in those permissions, only one of them would be capable of being built. The latter planning permission (the 2024 permission) appears to relate to amendments to the size of the rear extensions. Based on my observations on site and based on the size of the rear extensions it is more likely than not that the 2024 permission was begun and there is no dispute that it is extant.
8. There would also be less cost and disruption than total demolition, as the appellant would be able to modify the development by modifying the set back of its first floor from the front elevation of the dwellinghouse, the ridge height of its roof and the fenestration of its first-floor rear elevation. In light of the extant planning permission which the Council granted and would have been subject to public consultation, I consider that complete demolition of the development is therefore excessive and unnecessary.
9. Consequently, under section 176(b) of the 1990 Act, I will vary the EN to require either the complete demolition of the development, or that the development shall be altered to comply with the terms and conditions of the 2024 permission with regards to the set back of its first floor from the front elevation of the dwellinghouse, the ridge height of its roof and the fenestration of its first floor rear

¹ Ref Nos. DC/23/68291 and DC/24/69086.

elevation. The appellant therefore has the choice of which course of action to take. The appeal on ground (f) therefore succeeds to this extent.

The ground (g) appeal

10. A ground (g) appeal is that any period specified in the EN in accordance with section 173(9) of the 1990 Act falls short of what should reasonably be allowed. The appellant has requested that the time for compliance be extended from 9 months to 18 months given the availability of finances and the extent of the works to remove the development. However, no further detail has been submitted as to why 18 months is required. I observed that the appellant and their family is living at the property.
11. Yet, given the variations to the requirements the appellant has the choice of whether to demolish or modify the development. Therefore, in my judgement the time limit attached to the requirements of the EN is reasonable. It follows that the appeal on ground (g) fails.

Conclusion

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

D. Boffin

INSPECTOR