



Appeal Decisions

Site visit made on 18 August 2026

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2026

Appeal A Ref: APP/V1505/C/24/3356978

Appeal B Ref: APP/V1505/C/24/3356979

Bluebell Cottage, Fairway, Wickford, Essex SS12 9EU

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (the 1990) as amended.
- The appeals are made by Mr Kingsley Ibeji and Ms Deborah Ann Elizabeth Ibeji against an enforcement notice issued by Basildon Borough Council.
- The notice was issued on 7 November 2024.
- The breach of planning control as alleged in the notice is *without planning permission, the erection of a building (shown approximately edged and hatched black on the attached notice plan)*.
- The requirements of the notice are:
 - (i) *Demolish the building (as shown approximately edged and hatched black on the attached notice plan).*
 - (ii) *Permanently remove from the Land all resultant construction waste and debris from works done in compliance with requirement (i).*
- The period for compliance with the requirements is: *Four (4) months after this notice takes effect.*
- The appeals are proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the Town and Country Planning Act 1990 (as amended).

Formal Decisions

1. The appeals A and B are dismissed, and the enforcement notice is upheld.

Preliminary Matters

2. The appellants have exercised their right of appeal under grounds (c), and (f) only. However, I note that a section of the appellants representations are based on the argument that the period for compliance with the alleged breach of planning control is too short. This issue should be correctly addressed under a ground (g) appeal, and I have referred to both parties of my intension to consider the appeal under this ground. Consequently, neither party has been prejudiced by this approach.
3. A revised National Planning Policy Framework (the Framework) was published by the Government on 17 August 2026. Those parts of the Framework most relevant to this appeal have not been significantly amended. As a result, I consider that there is no requirement for me to seek further submissions and I am satisfied that neither of the party's would have been prejudiced in my approach. I will refer to the new Framework policies in this appeal where appropriate.

Appeal A and B under ground (c)

4. An appeal on this ground is made on the basis that the matters stated in the enforcement notice (if they occurred) do not constitute a breach of planning control. The burden of proof is firmly on the appellant to make their case, on the balance of probabilities.

5. The appeals relate to the erection of an outbuilding within the curtilage of Bluebell Cottage. The Council allege that the development of the outbuilding would not be considered 'permitted development' (PD) under Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). Specifically, given the positioning of the outbuilding close to the boundary of the site, the Council maintain that the height would exceed the 2.5 metres requirement as set out in Schedule 2 Part 1 Class E of the GPDO.
6. From the information before me, the existing outbuilding does indeed exceed the height criteria of the GPDO as set out above. Accordingly, the development would not comply with the limits and conditions of PD, as set out in Schedule 2 Part 1 Class E.1(e)(ii) of the GPDO and subsequently planning permission is required. Therefore, the matters stated in the notice have occurred, and I conclude that the appellant has not shown, on the balance of probabilities, that they do not constitute a breach of planning control.
7. Therefore, the appeals under ground (c) fail.

Appeal A and B under ground (f)

8. An appeal on ground (f) is made on the basis that the requirements of the notice exceed what is necessary. Section 173(4) of the 1990 Act (as amended) sets out the purposes which an enforcement notice 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.
9. The enforcement notice requires the demolition of the outbuilding. This is as opposed to requiring the structure to be modified, for example, reducing the size. Removing the outbuilding would restore the land to its condition before the breach took place. Therefore, the purpose of the notice must be to remedy the breach.
10. The appellant has suggested modifications to the existing outbuilding including the reduction in the height of the structure and/or adjusting the design to better integrate within the existing environment. A reduction in the height of the outbuilding may well provide a structure that could accord with PD requirements, which would be at less cost and disruption to the appellants. However, this would not remedy the breach as a structure would remain at the site and the land would not be restored to a condition prior to the breach taking place.
11. Furthermore, Article 3(5)(a) of the GPDO states permission granted by Schedule 2 does not apply if in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful. Neither party disputes that the outbuilding is either existing or unlawful. As such, despite the modifications suggested, given their existing and unlawful status the structure could not benefit as PD.
12. Overall, the steps set out in the notice are not excessive; they are proportionate and commensurate to the breach of planning control, being the minimum that is required to restore the property to its condition prior to the breach taking place.
13. As a consequence, the appeals under ground (f) also fail.

Appeal A and B under ground (g)

14. For an appeal on ground (g) to succeed, it is to be demonstrated that the period specified in the notice for compliance in accordance with section 173(9) of the 1990 Act (as amended) falls short of what should reasonably be allowed.
15. The outbuilding has not been finished. Currently the external appearance consists of timber sheeting over a frame, which provides a semi-completed and temporary appearance. The works to remove the structure as required by the enforcement notice would be within the capabilities of a competent person within the building trade and could be undertaken within four months of the date of this decision.
16. Furthermore, I have been presented with little evidence that would lead me to otherwise conclude that the period of four months is reasonable and proportionate to remedy the breach of planning control. The specified timeframe would strike an appropriate balance between the remedial rather than punitive requirements of the enforcement notice whilst also maintaining public confidence in the planning system.
17. I therefore conclude that the appeals under ground (g) fail.

Overall Conclusions

18. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice.

Robert Naylor

INSPECTOR