



Appeal Decisions

Site visit made on 13 October 2026

by **M Savage BSc (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 October 2026

Appeal Refs: APP/P4605/C/25/3362979 (Appeal A) & 3362981 (Appeal B) **36 Miall Road, Birmingham B28 9BP**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeals are made by Mr Izrar Nabi (Appeal A) and Mrs Shara Bibi (Appeal B) against an enforcement notice issued by Birmingham City Council.
- The notice was issued on 27 February 2025.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised hip to gable loft conversion with dormer window to the rear and rooflights to the front in the approximate position marked in green in the attached plan.
- The requirements of the notice are to:
 - i. Demolish the rear dormer window and hip to gable roof extension in its entirety and remove all demolished materials from the Premises
 - ii. Remove the rooflights to the front of the Premises in its entirety and remove any associated demolished material.
 - iii. Restore the roof to its original condition prior to the unauthorised hip to gable loft conversion with dormer window to the rear and rooflights to the front
- The period for compliance with the requirements is: 6 months.
- The appeals are proceeding on the ground set out in section 174(2)(d) of the Town and Country Planning Act 1990 (as amended).

Decisions

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

Preliminary Matters

2. Although the appellants appealed under ground (a), the Planning Inspectorate wrote to the appellants on 25 March 2025 confirming that ground (a) was considered to be barred because the notice was issued within the two-year period after the making of a related application that is no longer under consideration. The appellants have not challenged this conclusion and having regard to what I saw during my site visit, I have no reason to draw a different conclusion. The appeals shall therefore proceed on ground (d) only.
3. The appellants state that the works have been carried out to a high standard. However, as there is no ground (a) appeal, I cannot consider the planning merits of the scheme.

Reasons

4. An appeal under ground (d) is made on the basis that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by the matters stated in the notice. Section 171B of the Act provides that where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement

action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed, unless the breach occurred on or after 25 April 2024, in which case, the relevant period is ten years.

5. In a legal ground of appeal, such as ground (d), the burden of proof is firmly upon the appellant to make their case to the civil standard, which is the balance of probabilities. Since the enforcement notice was issued on 27 February 2025, the appellants will need to show, on the balance of probabilities, that the works were substantially completed on or before 27 February 2021. The main thrust of the appellants' case is that the development took place towards the end of November 2020 and was completed in January 2021.
6. While the appellants state that the breach in question was completed in January 2021, it is not clear what they mean by the term 'completed'. The phrase 'substantially completed' is generally held to mean a fully detailed building of a certain character. However, the evidence provided does not explain the extent of works which had been completed by January 2021, nor whether there were any outstanding works after this time, even if such works only affected the interior. The appellants' evidence is not sufficiently precise and unambiguous in this regard.
7. The appellants state that they submitted an application for prior approval to extend the rear of their property under permitted development, which was granted in 2021, reference 2021/05672/PA, with the approval (allegedly) stating that the works were to be carried out under permitted development. The appellants assert that this application was made after the dormer was completed.
8. However, a drawing, titled 'Location Plan for School Rd Conservation', dated Oct'23, states *'We applied for a prior approval application to extend the rear of my property single storey 4.5m under permitted development, this was granted in 2021 – Ref: 2021/05672/PA – clearly stating in approval, works to be carried out under permitted development. Having received this under permitted development, I was unaware that planning permission is required for a dormer conversion as these also fall under the same bracket as permitted development.'*
9. This suggests that the appellants believed the dormer conversion was permitted development because of the decision received in respect of the prior approval application, which points towards the sequence of events being the receipt of the prior approval application decision, followed by the carrying out of the 'dormer conversion'. This appears contrary to the appellants' assertion that application 2021/05672/PA was made after the dormer was completed. The Council confirmed that prior approval was not required on 19 July 2021. This is well after the appellants say that the dormer was completed and, significantly, less than four years before the enforcement notice was issued.
10. I note that the appellants state that they submitted all proposals to the 'Local Authorities Building Control ACIVICO' and that the plans were registered and approved. While such documentation may assist in understanding when works were carried out, it is not clear from the evidence when these plans were registered or approved. No other contemporaneous documentation, such as invoices or receipts, has been provided to corroborate the appellants' case that the works were substantially completed by January 2021.
11. Given the paucity of evidence and the lack of clarity regarding the sequence of events referred to above, I find that the appellants have not discharged their

burden of proof. Thus, the evidence is not sufficiently precise and unambiguous and does not show, on the balance of probabilities, that the works were substantially completed on or before 27 February 2021 and so the appeals under ground (d) must fail.

Conclusions

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

M Savage

INSPECTOR