Planning Inspectorate

Appeals Decisions

Site visit made on 23 September 2026

by D A Hainsworth LL.B(Hons) FRSA Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22nd October 2026

Appeals APP/L3245/C/25/3364488 & APP/L3245/C/25/3364490
Fernleigh, High Street, Clive, Shrewsbury, Shropshire SY4 3JL

- Appeal APP/L3245/C/25/3364488 is made by Phillip Lansdale and appeal APP/L3245/C/25/3364490 is made by Kerri Lansdale. Both appeals are made under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: 24/10318/ENF) issued by Shropshire Council on 27 March 2025.
- The breaches of planning control alleged in paragraph 3 of the notice are as follows:-
  "(i) Without planning permission, the erection of a single storey rear extension in the approximate location marked with an 'A' on the attached plan.
  (ii) Without planning permission, the formation of a vehicular access off a Class iii road facilitated by the part removal of a boundary wall to the front garden, along with engineering works to regrade land levels, creation of vehicle parking area and construction of retaining walls in the approximate location marked with a 'B' on the attached plan.
  (iii) Erection of entrance porch to front elevation."
- The requirements of the notice are as follows: -
  "5(1) To comply with 3(i) of this notice, demolish the single storey rear extension located in the approximate position marked with an 'A' on the attached plan and remove from the Land all rubble and materials arising from the demolition of the extension (to remedy injury to amenity).
  5(2) To comply with 3(ii) of this notice, demolish and remove the retaining walls constructed in the front garden, reinstate the land levels and front boundary wall to a condition before the breach took place, in the approximate position marked 'B' on the attached plan and remove from the Land all rubble and materials arising from the demolition. (to remedy the breach of planning control)."
- The period for compliance with these requirements is six months.
- Appeal APP/L3245/C/25/3364488 is proceeding on the grounds set out in section 174(2)(a) and (f). Appeal APP/L3245/C/25/3364490 is proceeding on the ground set out in section 174(2)(f) only. An application for planning permission is deemed to have been made by section 177(5) in respect of the matters stated in the notice as constituting the breaches of planning control.

Application for costs

1. The appellant Phillip Lansdale's application for a partial award of costs against the Council is dealt with by a separate decision.

Appeals decisions

Appeal APP/L3245/C/25/3364488 & Appeal APP/L3245/C/25/3364490

2. It is directed that the enforcement notice be varied by (a) replacing paragraph 5(2) by "5(2) Restore the front boundary wall and its opening to their condition before the breach took place by rebuilding the wall with an opening no wider than 1.2m." and (b) replacing "6 months" in paragraph 6.(i) by "9 months".

3. Subject to this direction, the appeals are dismissed, the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990 is refused and the enforcement notice is upheld as varied.

Reasons for the appeals decisions

Ground (a) – the front entrance porch

4. Although the breaches of planning control alleged in the notice include the front entrance porch, because it exceeds the permitted development size, the Council have decided that the porch accords with the development plan and do not consider it expedient to take formal enforcement action against it. In view of this, the requirements of the notice do not refer to it. Section 173(11) of the 1990 Act deals with the grant of planning permission for the porch in these circumstances and I have therefore taken no further action in respect of it.

Grounds (a) & (f) – the single-storey rear extension

5. The house is a two-storey property in the middle of a row of three extended terrace houses. The terrace is classified by the Council as a non-designated heritage asset. The Old Manor House, which is Grade II Listed, is near to the southern boundary of the terrace. The adjoining terrace house to the west is Oakleigh, which has two-storey and single-storey pitched-roofed extensions that project further to the south than the extension enforced against. April Cottage is the adjoining terrace house to the east; this property is L-shaped and consists of a south-facing two-storey house and a single-storey pitched-roof projection on the eastern side that extends almost to the boundary with the grounds of the Old Manor House.

6. In 2024, an appeal (ref. APP/L3245/D/24/3347742) against the Council's decision to refuse an application to erect a two-storey rear extension to the house was dismissed. This proposal would have added a two-storey hipped roof block to the house, as high as the house itself, with a lower connecting pitched roof and a flat-roofed single-storey annexe on its western side. It would have projected 5.3m from the rear of the house and would have occupied most of the width of the plot. The inspector dealing with that appeal concluded that the extension would virtually double the size of the house and look incongruous and would appear out of scale and keeping with the house and the terrace as whole. The inspector also had concerns about the harm to the non-designated heritage asset, the effect of the proposed extension on the neighbours' amenities and its effect on the setting of the listed building.

7. The extension now enforced against is single-storey. It extends from the rear of the house in a T̆ shape, the central projection having a pitched roof with a ridge extending at right-angles to the house at the height of the eaves of the

house, with flat-roofed wings on each side. The central projection is 7.1m in depth; the wings project 3.2m and extend widthways nearly up to the boundaries of the plot at a height of slightly over 3m. The extension has replaced a smaller single-storey extension, which had existed there since at least the 1930s. This projection had a pitched roof with a hip, but it was not as wide as the extension enforced against and it did not project as far out as the central projection of the extension enforced against, which projects a further 3.18m.

8. The main issues in deciding whether planning permission should be granted for the extension enforced against concern its effect on the appearance of the house and the terrace, on neighbours' amenities and on heritage assets.

9. The depth of the extension's central projection and the overall width of the extension combine to give the extension an appearance that dominates its surroundings. It looks out of keeping with the house and the terrace as a whole and it reduces the standard of outlook enjoyed by the occupiers of Oakleigh and Eden Cottage. Notwithstanding the changes that have been made to these two properties over time, the non-designated heritage asset has retained the U-shape that gives it its significance, reflecting the former courtyard setting of the Old Manor House; the depth of the extension's central projection detracts from these qualities. The extension therefore conflicts with the Shropshire Local Development Framework: Adopted Core Strategy, Policies CS6 (fourth bullet point) and CS17 (first bullet point), and the SAMDev Adopted Plan, Policies MD13 (criterion 1) and MD2 (criteria 2.i and 2.iii).

10. The appellants do not maintain that the extension as it stands is permitted development, but they have put forward several options for it to be altered or replaced based on their interpretation of what could be carried out as permitted development or their view as to what would be sufficient to make it acceptable in planning terms. They maintain that they have fallback positions and that the enforcement notice should not require the extension to be demolished if substantially the same structure could be erected in its place.

11. Three important considerations affect the appellants' contentions: -

    Firstly, planning permission can only be granted "in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates" (section 177(1)(a) of the 1990 Act). Whether planning permission could be granted for one or other of the other proposals put forward by the appellants depends on whether the proposal would be within the limitations of this sub-section and, if so, whether it should be permitted on its merits.

    Secondly, there are no permitted development rights available in relation to the smaller extension that was demolished as part of the initial site preparation works to make way for the larger extension enforced against, because the existence of these rights is dependent on the continuing existence of the smaller extension and the rights do not survive its demolition (see *Arnold v SSCLG* [2015] EWHC 1197 (Admin)). The case of *Guildford BC v SSLUHC and Weeks* [2023] EWHC 575 (Admin) and the appeal decisions referred to by the appellants are all concerned with planning applications where the meaning of

the term "original building" or similar description, as used in the particular planning policies concerned in each case, was relevant to the planning merits of the developments proposed. They have no bearing on the exercise of permitted development rights in the current appeal.

Thirdly, the fallback positions must be legally available. If they are and they are more than a merely theoretical prospect, they should be compared to the extension enforced against and the weight to be given to them should be assessed.

12. With these considerations in mind, I have considered all the potential options put forward by the appellants and have reached the following conclusions: -

There are three possibilities put forward on pages 16 and 17 of Nigel Thorns' Enforcement Appeal Statement, based on the demolition of all parts of the extension beyond a depth of 3.2m and a height of 3.1m together with rebuilding works and other modifications. These possibilities have been enlarged upon by plans submitted during the course of the appeal. None of these possibilities would be permitted development.

There is a further suggestion, supported by a plan, that I could allow the extension to be retained up to what the appellants consider to be the permitted development depth of 3m.

I do not consider that I could grant planning permission for any of the possibilities or the suggestion, since the extent of the works required would take them beyond the limitations imposed by section 177(1)(a). Nor do I consider that they are acceptable fallback positions since, apart possibly from the suggestion, they would not be permitted development and in comparison with the development enforced against all of them would in reality be alternative replacement developments. This is not a case where a structure that was substantially the same could lawfully be erected in place of the extension enforced against.

I have the authority under section 176(1)(b) to vary the terms of the enforcement notice if I am satisfied that the variation will not cause injustice to the appellants or the Council. I have decided not to do so in this instance, for the following reasons: -

In the first place, the need to draft a variation with the required precision would be susceptible to error or omission in the circumstances arising in this instance.

Secondly, I would be obliging the appellants to carry out my choice of one of the alternatives, which I do not consider appropriate and which may give rise to both the appellants and the Council experiencing injustice. In addition those who made representations in this appeal would not have been notified.

Thirdly, owing to the provisions of section 173(11), the effect would be to grant planning permission for development for which planning permission could not have been granted because of the limitations in section 177(1)(a).

13. I do not consider that the breach of planning control is trivial or technical, as asserted by the appellants, or that the Council have issued the enforcement notice contrary to Government guidance. For the above reasons, I have come

to the conclusion that the extension enforced against should not be approved as it stands and that the requirements in the enforcement notice relating to it should be maintained. The appellants will wish to consider their position in the light of this conclusion and may decide to make an application for planning permission or to apply for a lawful development certificate. I have therefore extended the compliance period in the notice from 6 months to 9 months to allow further consideration to take place.

Grounds (a) & (f) – the vehicular access and associated works

14. The Council state that the removal of part of the front boundary wall and the excavation of the land behind it has created a parking area for the house. They consider that the use of the parking area would be detrimental to road safety because it is close to a road junction and because drivers reversing out of it would have inadequate visibility.

15. The appellants have explained that part of the wall was removed in order to allow deliveries to take place and materials to be stored in the front garden when the building works were taking place at the rear of the house (all access to the back of this terrace house being unavailable). They state that it is their intention to rebuild the wall with a 1.2m-wide gateway when the works are completed and that they have kept the stones needed for this work. When carried out, these measures would restore the boundary to its configuration before the vehicular access was created.

16. I agree with the Council that planning permission should not be granted for the vehicular access to be retained, for reasons of road safety. However, the notice goes further than what is necessary to remedy the breach of planning control, which is the unauthorised formation of a vehicular access to a classified road, and to deal with the road safety concerns raised by the Council. It is sufficient simply to restore the wall to its former condition, which included a pedestrian opening, as is intended by the appellants. I have therefore made an appropriate variation to paragraph 5(2) of the notice. I do not agree with the Council that motorcycle access should be prevented (reversing movements would not be involved) or that the wall could be removed again in the future (this would be prohibited by section 181 of the 1990 Act).

17. The extension of the compliance period referred to in paragraph 13 above will also apply to the closure of the vehicular access, to allow for the storage use to continue for this period.

D.A.Hainsworth

INSPECTOR