Planning Inspectorate

Appeal Decisions

Site visit made on 24 August 2026

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2026

Appeal A Ref: APP/W0734/D/25/3359718
26 Elwick Avenue, Middlesbrough TS5 8NT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Mehsan Ahmed against the decision of Middlesbrough Council.
- The application Ref is 24/0418/FUL.
- The development proposed is Retrospective planning application for the construction of a rear single storey extension.

Appeal B Ref: APP/W0734/C/25/3359720
26 Elwick Avenue, Middlesbrough TS5 8NT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Mehsan Ahmed against an enforcement notice issued by Middlesbrough Council.
- The notice was issued on 30 December 2024.
- The breach of planning control as alleged in the notice is Without planning permission, the erection of a single storey extension on the rear wall of the dwellinghouse ("the unauthorised development").
- The requirements of the notice are to:
  a) Demolish the single storey rear extension shown in the approximate position outlined and cross hatched in black on the attached plan.
  b) Remove from the land the resulting material and debris, together with any plant, tools and equipment used to undertake the required steps.
- The period for compliance with the requirements is:
  Six (6) months.
- The appeal is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: Appeal B is dismissed and the enforcement notice is upheld.

Formal Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

3. Appeals A and B relate to the same matter. Appeal B was initially submitted on grounds that included ground (a). However, appeals on ground (a) are barred under the provisions of section 174(2A) of the Town and Country Planning Act 1990 (as amended) (the Act). In this instance, the making of a related planning application (Appeal A), the detail of which includes the works enforced against by the notice, is the reason for the ground (a) appeal to be barred. As a consequence, Appeal B proceeds on the basis of ground (f) only, whilst Appeal A considers the planning merits of the scheme for which planning permission was sought.

4. The extension is described in the appellant's Appeal Statement as being in the region of 6 metres in length[1]. Although the Council's delegated report also acknowledges that the submitted plans indicate an extension of 6 metres in length, it goes on to state that 'upon measuring on site the length was found to be 6.5 metres' in its projection from the rear of the house.

5. At the site visit the main parties were asked to re-measure and agree the external dimensions of the extension. It was agreed that those measurements indicated an extension 'as built' of 6.025m in projection, thereby most closely supporting the appellant's stated dimensions and those initially quoted by the Council. It is not clear on what basis the Council's reference to a projection of 6.5 metres was made, but I have determined the appeal on the basis of the measurements as taken, and agreed on site, by the two main parties.

6. A new National Planning Policy Framework (the Framework) was published on 17 August 2026. The views of both main parties have been sought as to the relevance of the introduction of the Framework 2026 to their respective cases and I have taken any responses into account in my consideration of the appeal, below.

Appeal A

Main Issues

7. The main issues are the effects of the rear single storey extension upon:

   - The living conditions of occupiers of the neighbouring property at 24 Elwick Avenue; and
   - The character and appearance of the appeal property and the surrounding area.

Reasons

Living conditions

8. The extension as built is located directly adjacent to the garden fenceline separating the appeal property for the adjoining half of the semi-detached property at 24 Elwick Avenue. The rear of No. 24 is unextended, with glazed patio doors serving a habitable room at the rear, adjacent to the boundary and extension.

9. The Council's 'Urban Design' Supplementary Planning Document[2] (SPD) recognises the potential effects of domestic extensions on the living conditions of occupiers of neighbouring properties. Ground floor extensions can, it states, 'create a particular impact on attached neighbours if located on the shared boundary'. It identifies that windows may become dominated by extensions and daylight obstructed and recommends a maximum projection of 3m from the rear of the house as 'a solution'.

10. The SPD recognises that extensions with a projection greater than 3 metres may not be unacceptable, but that in such circumstances it recommends that they should be inset from the boundary. With a projection in the region of 6 metres, the extension substantially exceeds the SPD's guidance whilst the lack of inset from

[1] Paragraph 4 = 6024mm (6.024m), paragraph 22 = "an extension of 6m"
[2] Adopted January 2013

the shared boundary with No. 24 compounds its failings with regard to the SPD's guidance and advice.

11. In addition to its projection from the rear of the house and its proximity to the neighbouring property, the extension features a flat roof with a raised parapet wall. Whilst such a design minimises height where a pitched roof might otherwise abut the rear elevation of the property, the parapet wall nevertheless results in significant and bulky elevations across the extension's depth and width. These factors, taken together, are such that the extension results in an unacceptably overbearing impact upon the outlook enjoyed from the rear, and closest rear window, of No. 24.

12. The appellant has sought to minimise the Council's concern regarding the effect of extension on the daylight and sunlight experienced at the rear of No. 24 by referring to the previous presence of an extension at the appeal property, and due to the orientation of the two houses relative to each other. However, the Council's delegated report is clear that the extension has a greater and more deleterious effect on both daylight and sunlight received at the rear of No. 24, than the previous, smaller extension. It notes that this would be particularly felt during the winter months. Although not decisive in its own right, the position of the extension and the orientation of the two properties being as they are, support my conclusion that the effect of the extension upon the living conditions of occupiers of No. 24 in terms of outlook and a reduction in daylight and sunlight received, has not been minimised. Rather, the effect is unduly harmful and fails to achieve the high-quality design sought by Core Strategy Policies DC1, CS4 and CS5, and the guidance and advice of the SPD.

13. I give little weight to the appellant's suggestion that the bulk and massing of the extension, the extent of its projection and its height above the timber panel fence would be lessened should the fence be increased in height under the provisions of Class A, Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order). This increase in height of the fence over and above its current height would be limited and would do little, if anything, to mitigate the scale of the extension. Furthermore, a fence is a relatively lightweight structure in visual and physical terms, unlike the extension as built, and the relative proximity of a fence to the windows of neighbouring properties in a residential context is not uncommon or generally considered to be particularly harmful. What has been built bears little comparison to the type and height of fence that could be erected under permitted development rights, and this does not therefore persuade me that such an approach would provide meaningful mitigation or limitation of the harm that arises.

14. So too, the suggestion that the extension as built would be in line with 'normal' permitted development limits for larger household extensions[3]. Larger household extensions of this scale are subject to a 'prior approval' process and may be subject to scrutiny as to the impact of the development on the amenity of any adjoining premises. As the name of the process suggests, permitted development rights in such circumstances cannot apply retrospectively.

15. It has also been suggested that as the first 3 metres of the extension would be permitted development, the additional projection and height beyond 3 metres

[3] As set out at Class A (paragraph A.1(g) and the provisions of paragraph A.4 at Part 1, Schedule 2 of the Order

would not have a significantly overbearing effect on the living conditions of occupants of the neighbouring property. No alternative scheme has been put before me as part of the appeal process other than a vague reference to a 3 metre extension, and I am not aware of an alternative being before the Council during the application process. In any event, it is not the role of an appeal under section 78 of the Act to determine the lawfulness of an alternative proposal and appropriate provisions instead exist under sections 191 or 192 of the Act, should the appellant wish to explore such an alternative.

16. For the reasons set, the extension fails to pay proper regard and consideration to the living conditions and amenities of occupiers of the neighbouring property at 24 Elwick Avenue. The outlook from the rear of that property would be significantly and harmful impacted upon by the projection, scale and bulk of the extension and its proximity to the shared boundary between the appeal property and No. 24. The effect on neighbour amenities would not be minimised and as such the appeal scheme fails to secure the high quality development sought by Middlesbrough Core Strategy (adopted 2008) Policies CS5 and DC1 and the guidance and advice set out in Middlesbrough's Urban Design Supplementary Planning Document (SPD, 2013).

17. As the site lies within a settlement boundary, Framework Policy S4 establishes a principle that schemes should be approved unless the benefits of so doing would be substantially outweighed by any adverse effects when assessed against the Framework's decision making policies. The appeal scheme provides the appellant with additional residential floorspace as part of the extension and adaption of an existing dwelling. However, for the reasons I have set out, the extension as built has a harmfully overbearing effect on the neighbouring property, causing harm to the living conditions of the occupiers thereof, as a consequence of its projection, height, scale and form and proximity to the shared boundary between Nos. 26 and 24. The harm arising substantially outweighs the benefits and so the scheme does not benefit from the presumption established by Framework Policy S4, and would be inconsistent with the aims and principles of Framework Policies DM3, L2, L3, DP3 and DP4.

Character and appearance

18. The extension is located to the rear of the appeal property where the existing buildings and the narrow driveway gaps between them renders the extension barely visible. There is agreement between the main parties that the extension does not have an impact on the Elwick Avenue frontage streetscene. What can be seen of the extension from the roadside is visually recessive, limited and not uncommon in an area where extensions and outbuildings can be glimpsed between buildings.

19. However, there is nevertheless a streetscene at the rear of properties on Elwick Avenue where, even if it not widely visible, extensions, alterations and outbuildings are experienced by occupiers of neighbouring properties. An extension measuring 6 metres in projection is a sizable extension in the context of modest semi-detached dwellings. However, there are a mix of extensions and outbuildings, of mixed sizes and with varying roof forms and design at the rear of properties along Elwick Avenue that are visible from the rear of the appeal property.

20. Notwithstanding the substantial rearward projection of the extension, its single storey form would remain subservient to the overall scale and massing of the main dwelling. Nor is the flat roof form of the extension's design particularly objectionable. Whilst I acknowledge that the SPD advises that flat roofs should be avoided, the SPD does not explicitly prohibit them. As there is a variety of extension and outbuilding types visible along the rear of Elwick Avenue, including those with flat roofs, I am not persuaded that the appellant's approach in this respect is harmful to the character and appearance of the appeal property or that of the wider area.

21. The extension's unfinished-looking render treatment to the elevations looked somewhat untidy at the time of my visit to the site. Whilst the use of a suitably treated and finished render would not necessarily be objectionable, I note the appellant's stated intention of using 'brick slips' to more closely reflect the red-brick finish of the main house. Other extensions and outbuildings visible along the rear of properties on this part of Elwick Avenue also appear to be finished in brick and so, should this appeal succeed, a suitably worded condition could ensure that the extension is finished off accordingly and within a specified timescale.

22. Thus, with regard to the effect upon character and appearance, the extension would not cause unacceptable harm to that of either the appeal property or the wider surrounding area. There is no conflict with the provisions of Core Strategy Policies CS5 or DC1, or the broad aims, provision and guidance set out in the SPD, or the policies and provisions of the Framework with regard to high quality design and matters of character and appearance.

Other Matters

23. I have been invited to draw comparison between the appeal scheme and schemes nearby that the appellant claims to be similar. Decision letters regarding these appeal schemes have been appended to the appellant's statement of case to this end, albeit without the plans to demonstrate the detail and context of those schemes[4].

24. Nevertheless, the inference from the paragraphs extracted from the selected decisions is that large, flat roofed extensions may not cause harm to the character and appearance of the host dwelling or the surrounding area. However, as explained above, I have concluded that the appeal scheme would not cause harm to character and appearance. Rather, the effect upon the living conditions of occupiers of the neighbouring property is, in this instance, unduly and unacceptably harmful.

25. Nor, from the limited evidence submitted, is it clear that the examples provide direct comparison to the appeal site either in terms of effects upon character and appearance, or the relationship of the cited example extensions and directly neighbouring properties. As a consequence, the cited examples are not matters to which I give any significant weight, or are sufficient to persuade me to reach a different conclusion with regard to effects upon living conditions.

[4] APP/W0734/D/22/3308370, APP/W0734/D/22/3313846, APP/W0734/D/24/3346601 & APP/W0734/D/23/3332963

Conclusion on Appeal A

26. Whilst I have found no harm arising from the extension in terms of its effect on the character and appearance of the appeal property and the surrounding area, there is unacceptable harm to the living conditions of occupiers of the neighbouring property with particular regard to outlook. Whilst not decisive, the position of the extension and the orientation of numbers 24 and 26, is also likely to affect daylight and sunlight received at No. 24 to a harmful extent, particularly more so at certain times of the year. Thus, for the reasons set out, and having considered all other matters raised, I conclude that Appeal A should be dismissed.

Appeal B

27. An appeal on ground (f) may be brought if it is considered that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. As the notice requires the removal of the extension, this is consistent with the purpose of remedying the breach of planning control in accordance with s173(4)(a) of the Act, and not just the remedying of any injury to amenity that has been caused by the breach.

28. The '*Mansi principle*'[5], which principally relates to existing use rights, has been referred to by the appellant, in that, by requiring the demolition of the whole extension rather than that which exceeds the permitted development provisions, the notice exceeds what is necessary to remedy the alleged breach or, as the case may be, any injury to amenity which has been caused by any such breach. However, as I have concluded that the notice's requirements are consistent with remedying the breach, rather than any injury to amenity, only the removal of the extension as built would fulfil the purpose of the notice.

29. As the Mansi principle refers to the retention of use rights, not the retention of buildings erected or altered in breach of planning control[6], this is not a matter that is sufficient to persuade me to the nullity of the notice. Nor, in the absence of a ground (a) appeal to consider the planning merits or a successful outcome to Appeal A as set out above, is it sufficient to persuade me as to the success of the appeal on ground (f) fails.

Conclusion on Appeal B

30. The appeal is dismissed and the enforcement notice is upheld.

G Robbie

INSPECTOR

[5] After *Mansi v Elstree RDC* [1964] 16 P&CR 153
[6] As per Mohamed v SSCLG [2014] EWHC 4045 (Admin)