



WRITTEN REPRESENTATIONS:

ENFORCEMENT APPEAL STATEMENT

FACTS TO SUPPORT APPEAL UNDER GROUNDS

(f) and (g)

FROM:

Mr Jomon George

FOLLOWING THE ISSUE OF AN ENFORCEMENT NOTICE BY:

West Berkshire Council

DATED:

30th October 2025

FOR:

Without planning permission, the erection of a wooden outbuilding with raised decking, located in the approximate position marked with a cross on the attached plan

AT:

4 Theobald Drive, Tilehurst, Reading, RG31 6YA

1.0 Introduction

1.1 Enforcement Notice dated 30th October 2025 was issued by West Berkshire Council as it appears to them that there has been a breach of planning control under Section 171A(1)(a) of the Town and Country Planning Act 1990 (as amended).

1.2 The land to which the Enforcement Notice relates is located at no. 4 Theobald Drive, Tilehurst, Reading, RG31 6YA.

1.3 The alleged breach of planning control is described as:

Without planning permission, the erection of a wooden outbuilding with raised decking, located in the approximate position marked with a cross on the attached plan.

1.4 The Enforcement Notice was issued for the following reasons:

- *Planning application 25/01693/HOUSE Was refused on the grounds of its size, bulk and siting in such a prominent position within the application site, resulting in an unacceptable detrimental impact on privacy, both real and perceived to the windows on the rear elevation of the neighbouring property (No.5) and to a lesser extent to the first floor windows on the rear elevation of No.3 and an overbearing impact and loss of outlook from the rear windows and garden area of No.5.*
- *The development results in both actual and perceived loss of privacy, overbearing impact and loss of outlook, contrary to the NPPF, policy SP7, criteria F of policy DM28 of the West Berkshire local plan review 2023-2041 which states that development should not be overbearing or detrimental to the immunity of nearby residents by virtue of loss of outlook. This is endorsed by criteria C of policy DM30, while criteria B off policy DM30 states that development should not be overlooking, causing harmful loss of privacy.*
- *The council considers that planning permission should not be granted, as planning conditions could not overcome the harm caused by the development.*

1.5 What they are required to do: -

- *Remove the unauthorised structure (wooden outbuilding with raised decking and balustrades) from the land.*

- *Remove all materials and debris resulting from the removal of the structure from the site.*

1.6 Time for compliance: *Two (2) months after this notice takes effect.*

1.7 This Notice takes effect on **11th December 2025** unless an appeal is made against it beforehand.

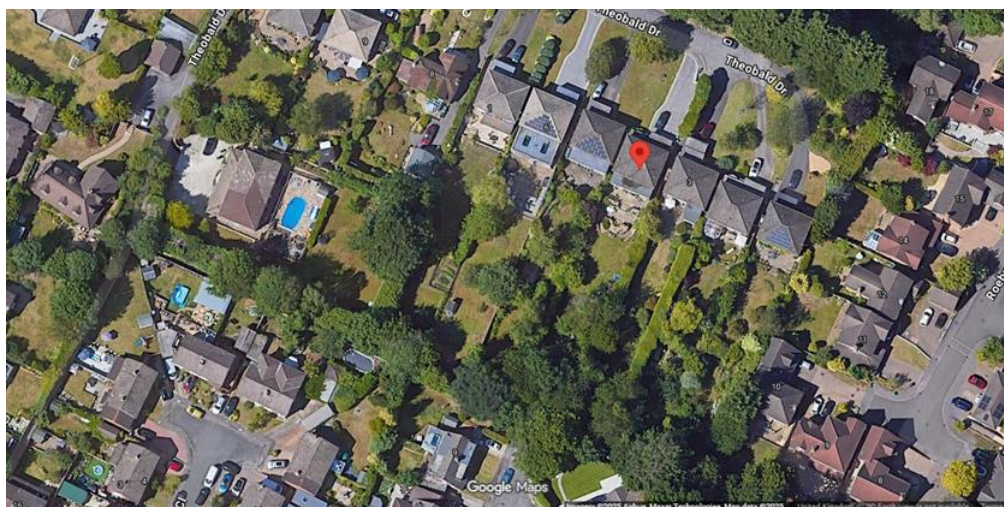
2.0 Appeal Site and Location

2.1 No. 4 comprises a detached, two storey dwellinghouse which is positioned in a large plot with long front and rear gardens. Due to the topography of the area the rear garden rises at its southern end.



No. 4 Theobald Drive

2.2 The appeal site is located to the southern side of Theobald Drive within a residential setting. The host property is not situated within any Conservation Area and is not a statutorily or locally listed building.



Aerial view of the appeal site and surrounding location

3.0 Relevant Planning Policy

3.1 The reasons for issuing the Enforcement Notice refer to the NPPF, Policy SP7, criteria f of Policy DM28 and criterion b and c of Policy DM30 of the West Berkshire Local Plan Review 2023-2041.

3.2 The following paragraphs will provide a brief summary of the relevant policies. The paragraphs are in a hierarchical order relative to the importance of national and local planning policy.

National Planning Policy Framework (NPPF) 2024

3.3 The National Planning Policy Framework set out the Government's planning policies for England and how these are expected to be applied. The following sections and paragraphs make reference to the parts of the NPPF which are directly relevant to this appeal.

Presumption in Favour of Sustainable Development

3.4 Paragraph 11 of the NPPF sets out that plans and decisions should apply a presumption in favour of sustainable development.

Decision-making

3.5 Paragraph 38 states that local planning authorities should approach decisions on proposed development in a positive and creative way.

Achieving well-designed places

3.6 Section 12 of the NPPF refers to design, with paragraph 131 describing how the Government attaches great importance to the design of the built environment, stating that "*Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.*"

3.7 Paragraph 135 states that planning policies and decisions should ensure that developments:

- a) *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) *are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) *establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*

- e) *optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) *create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

West Berkshire Local Plan Review 2023-2041

- 3.8 Policy SP7, criteria f of Policy DM28 and criterion b and c of Policy DM30 were referred to within the given reasons for issuing the Enforcement Notice.

Policy SP7: Design Quality

- 3.9 New development will be required to strengthen a sense of place through high quality locally distinctive design and place shaping. This will enable healthy place making, creating places that are better for people, taking opportunities available for conserving and enhancing the character, appearance and quality of an area and the way it functions.

Development proposals will be expected to show how they have responded positively to both national and local design guidance. At a national level this includes the characteristics of a well-designed place as set out in the National Design Guide (2021), or as superseded, and at a local level, this includes neighbourhood plans, design guides or codes and relevant community planning documents that identify the local character and distinctiveness of an area which is valued by local communities

Policy DM28: Residential Extensions

- 3.10 An extension, including alterations, or erection of an outbuilding will be permitted where the proposal complies with the following criteria:

- f. *It is not overbearing or of a form which would be detrimental to the amenity of nearby residents by virtue of loss of outlook, daylight, sunlight and / or privacy in accordance with policy DM30;*

Policy DM30: Residential Amenity

- 3.11 When considering the impact on the living conditions of existing and proposed residential dwellings, development proposals will be supported where there is no unacceptable harm in terms of the following criteria:

- b. *Any significant overlooking of land and buildings that results in a harmful loss of privacy;*
- c. *Development resulting in an undue sense of enclosure, overbearing impact, or a harmful loss of outlook;*

4.0 GROUNDS OF APPEAL

- 4.1 The appellant accepts that at the time the Enforcement Notice was issued that those matters described had occurred, and that the notice was properly served on everyone with an interest in the land.
- 4.2 The appellant is barred from appealing under ground (a) of section 174(2) of the Town and Country Planning Act 1990, as a planning application for the same development has already been refused. In these circumstances, the merits of the development cannot be re-considered through ground (a), and the appeal must therefore proceed on the remaining grounds available.
- 4.3 It is also relevant to note that a householder appeal has been submitted against the refusal of application 25/01693/HOUSE (Appeal Ref: 6001992). That appeal concerns the same development and should therefore be directly linked to this enforcement appeal. The Inspector is invited to consider both appeals in tandem to ensure consistency of decision-making and to avoid duplication of issues.
- 4.4 For clarity, the appellant does not pursue an appeal on grounds (a), (b), (c), (d) or (e).
- 4.5 Therefore, the appellant appeals under the following grounds:
- Ground (f) that the steps required by the notice are excessive and lesser steps would overcome the objections.
 - Ground (g) that the time given to comply with the notice is too short.

5.0 GROUND (f) APPEAL

- 5.1 In the instance the appellant appeals against the Enforcement Notice under Ground (f) on the basis that the steps required to be taken by the notice exceed what is necessary to remedy the breach of planning control.
- 5.2 The council's Enforcement Notice requests the following remedial action:
- *Remove the unauthorised structure (wooden outbuilding with raised decking and balustrades) from the land.*
 - *Remove all materials and debris resulting from the removal of the structure from the site.*
- 5.3 The appellant submits that the requirements of the Enforcement Notice are excessive. The notice requires the total removal of the outbuilding and associated decking, yet the alleged breach is extremely minor in scale. The outbuilding exceeds the permitted development height by only 35mm when measured from the highest adjacent ground

level, in accordance with Government Technical Guidance. The decking comprises two modest levels, at 120mm and 220mm when measured from the highest adjacent ground level, joined by steps. These dimensions are domestic in scale and do not give rise to demonstrable harm.

- 5.4 The purpose of an enforcement notice is to remedy the harm alleged, not to impose requirements that go beyond what is necessary to achieve that purpose. In this case, the Council's concerns relate to overlooking and perceived overbearing impact. These objectives can be achieved by less onerous requirements than complete demolition. The appellant therefore contends that the notice should be varied to allow retention of the outbuilding and decking subject to proportionate mitigation measures.
- 5.5 It is also relevant that the difference between the existing development and what could have been erected under permitted development rights is negligible. A cabin at 2.5m eaves height would be lawful without planning permission; the as built cabin is 2.535m. Such a marginal variance cannot materially alter the bulk or overbearing impact of the structure, particularly given the generous separation distances of over 21m to the host dwelling and similar distances to neighbouring properties. To require total removal for a 35mm exceedance is disproportionate and unnecessary.
- 5.6 The appellant has identified a series of reasonable alternatives which would fully address the Council's stated concerns. These are presented in a logical sequence, reflecting both effectiveness in mitigating impact and the relative scale of works required. Option 1 represents the least disruptive solution but are all intended as proportional lesser steps as opposed to complete demolition. The Inspector is therefore invited to consider the options in sequence, recognising that each would achieve the objectives of the notice without requiring complete demolition:

Option 1: Retain the structure in full with enhanced screening

- Outbuilding and decking retained as built.
- Removal of the north side external stairs to reduce any potential overlooking.
- Installation of obscure glazed privacy film to north facing side windows.
- Provision of double layer screening (evergreen planting plus secondary natural privacy screen) along the northern edge of the decking. Additional evergreen tree planting along 1.5m of the eastern edge of the deck.

Option 1 submitted with this appeal would eliminate any privacy concerns and would address overbearing and loss of outlook impacts. Therefore, demolition of the entire structure exceeds what is necessary.

Option 2: Retain as-built outbuilding but reduce the length of the north decking to 3.2m

- Shorten the decking to 3.2m which would reduce overall size and height.
- Removal of the north side external stairs to reduce any potential overlooking.
- Installation of obscure glazed privacy film to north facing side windows.
- Results in increased separation from the neighbouring properties.
- Provision of double layer screening (evergreen planting plus secondary natural privacy screen) along the northern edge of the decking. Additional evergreen tree planting along 1.5m of the eastern edge of the deck.

Option 2 submitted with this appeal would eliminate privacy concerns and would reduce overbearing effects whilst improving outlook. Therefore, demolition of the entire structure exceeds what is necessary to remedy the breach.

Option 3: Retain as-built outbuilding but reduce the length of the north decking to 2.2m

- Shorten the decking in 2.2m which would reduce overall size and height.
- Removal of the north side external stairs to reduce any potential overlooking.
- Installation of obscure glazed privacy film to north facing side windows.
- Results in increased separation from the neighbouring properties.
- Provision of double layer screening (evergreen planting plus secondary natural privacy screen) along the northern edge of the decking.

Option 3 submitted with this appeal would eliminate privacy concerns and would reduce overbearing effects whilst improving outlook. Therefore, demolition of the entire structure exceeds what is necessary to remedy the breach.

Option 4: Retain as-built outbuilding without north side decking

- Remove the northern decked area entirely, retaining only the front decking for stepping space.
- Installation of obscure glazed privacy film in the north facing side windows

Option 4 submitted with this appeal would eliminate privacy concerns and overbearing effects. Therefore, demolition of the entire structure exceeds what is necessary to remedy the breach and as the as-built outbuilding is only marginally taller than the limitations of permitted development the appellant considers this would be an appropriate lesser measure as opposed to complete demolition.

- 5.7 Each of these options represents a proportionate response to the concerns raised. They demonstrate the appellant's willingness to mitigate impacts through practical measures such as screening, obscure glazing, colour treatment, and removal of stairs. These measures directly address the issues of privacy and outlook identified by the Council, while avoiding the excessive requirement of total demolition.
- 5.8 For the avoidance of doubt, the appellant recognises that ground (a) is not available in this case, as a planning application for the same development has already been refused and is the subject of a separate householder appeal 6001992.
- 5.9 This enforcement appeal is therefore confined to ground (f), which is a legitimate and independent basis for appeal under section 174(2) of the Town and Country Planning Act 1990. The appellant emphasises that the purpose of this appeal is not to re-argue the planning merits, but to demonstrate that the requirements of the notice are excessive and that the Council's objectives can be achieved by less onerous steps. The Inspector is invited to consider this appeal in tandem with the linked householder appeal to ensure consistency of decision-making and proportionality in the outcome.
- 5.10 The appellant therefore respectfully requests that the Inspector vary the requirements of the notice to allow retention of the outbuilding and decking subject to appropriate mitigation, rather than uphold the requirement for complete removal. This approach would achieve the Council's objectives, align with the principle of proportionality in enforcement, and reflect the minimal difference between the existing development and what could lawfully be erected under permitted development rights.

6.0 GROUND (g) APPEAL

6.1 In the instance that the Inspector is minded to dismiss the appeal against Ground (f) the appellant appeals against the Enforcement Notice on Ground (g) on the basis that the time given to comply with the notice is too short.

6.2 The council's Enforcement Notice requests the following remedial action:

- *Remove the unauthorised structure (wooden outbuilding with raised decking and balustrades) from the land.*
- *Remove all materials and debris resulting from the removal of the structure from the site.*

6.3 Time for Compliance: **Two (2) calendar months after the notice takes effect.**

6.4 The appellant submits that the two month compliance period specified in the notice is unreasonably short given the scale of the works required. The removal of a timber outbuilding and associated decking is not a minor task; it involves dismantling, safe disposal of materials, and restoration of the garden area. A longer period is necessary to ensure that the works can be carried out safely, lawfully, and without undue disruption.

6.5 In practical terms, arranging for compliance within two months is unrealistic. Contractors are required to dismantle and remove the structure, and lead in times for booking such services often exceed two months, particularly during winter months or peak construction periods.

6.6 The removal of timber, decking, and balustrades also requires skip hire or licensed waste carriers, and arranging this responsibly takes time. Seasonal and weather constraints add further difficulty, as demolition and clearance in poor conditions can be unsafe and impractical.

6.7 The financial implications of compliance must also be acknowledged. The cost of dismantling, transporting, and disposing of the outbuilding and decking is significant, and the appellant must arrange quotations, secure funds, and schedule works responsibly.

6.8 A two month period does not allow sufficient time to plan for these expenses without undue hardship. By contrast, a six month period provides a fair and realistic opportunity to meet the financial obligations of compliance while still ensuring that the Council's objectives are met.

6.9 It is also relevant that the alleged breach is extremely minor, with the outbuilding exceeding permitted development height by only 35mm. In this context, it is

disproportionate to require urgent removal within two months when the harm is limited.

- 6.10 The appellant therefore respectfully requests that the compliance period be varied to six months. This would provide a reasonable and practical timeframe for arranging contractors, waste disposal, financing, and safe dismantling, while still ensuring that the Council's objectives are met within a proportionate period.

7.0 CONCLUSIONS

- 7.1 In summary, the appellant appeals against the serving of the Enforcement Notice on Ground (f), on the basis that the requirements of the notice should be varied. The alleged breach is extremely minor, with the outbuilding only 35mm above permitted development height, and the decking modest in scale. In these circumstances, total demolition is disproportionate, and the Council's objectives can be achieved by less onerous steps such as enhanced screening, removal of stairs, or modest reductions to the decking.
- 7.2 The appellant also appeals on Ground (g), requesting that the time given to comply with the notice be increased from two (2) months to six (6) months. This reflects the practical realities of arranging contractors, financing, and safe removal, and ensures that compliance can be achieved without undue hardship.
- 7.3 It is further relevant that a linked householder appeal 6001992 is currently before the Inspector. Considering both appeals in tandem will ensure consistency of decision making and avoid unnecessary or premature works.
- 7.4 Accordingly, the appellant respectfully requests that the Enforcement Notice be varied under Ground (f) to allow retention of the outbuilding and decking subject to proportionate mitigation, or alternatively that the compliance period be extended under Ground (g) to six months. This approach achieves the Council's objectives while ensuring fairness and proportionality in enforcement.