

# Appeal Statement of Case

## Local Planning Authority

### Town and Country Planning Act 1990 Section 174 appeal against the Enforcement Notice

**Appeal:** APP/W0340/C/25/3376703

**Site:** 4 Theobald Drive, Tilehurst, Reading, RG31 6YA

**Breach of Planning Control:** Without planning permission, the erection of a wooden outbuilding with raised decking

**Date:** March 2026

**Council Reference:** 24/00489/15UNAU



## Appeal Statement of Case

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## Appendices

A	A Copy of the Enforcement Notice served on 30 October 2025.
B	Red Line Plan
C	Expediency Report

## 1. Introduction

- 1.1 This Statement of Case is submitted by West Berkshire Council in respect of an appeal lodged under section 174 of the Town and Country Planning Act 1990 against an Enforcement Notice issued on 30 October 2025 relating to land at 4 Theobald Drive, Tilehurst.
- 1.2 The Enforcement Notice alleges the unauthorised erection of a wooden outbuilding with raised decking situated close to the northern boundary of the rear garden. The structure was confirmed as newly erected following a site visit on 15 April 2025 and is not immune from enforcement action.

### **Grounds of Appeal**

- 1.3 The appellant has appealed under Ground (f) (steps excessive) and Ground (g) (compliance period too short). The appellant does not pursue any other statutory grounds and accepts the development occurred and that the Enforcement Notice was properly served.

### **Scope of Statement of Case**

- 1.4 This Statement addresses the Council's reasons for issuing the Enforcement Notice, the policy context, the planning harm arising, and the Council's response to Grounds (f) and (g).

## 2. Appeal Site and Proposal

### Appeal Site

- 2.1 The appeal property is a detached two-storey dwelling with a substantial rear garden rising to the south. Residential properties lie immediately to the east and west, with No. 5 being directly affected by overlooking from the unauthorised development.
- 2.2 The outbuilding and elevated decking have been constructed close to the northern boundary on sloping ground, increasing perceived height and prominence. The structure introduces direct and elevated sightlines towards neighbouring windows and garden spaces.

### Planning History

- 2.3 The relevant planning history of the appeal site is set out in Table 2.1.

#### Planning History

Application	Proposal	Decision
79/11957/ADD	Extension to kitchen dining room and lounge	Approved 10.12.1979
25/01693/HOUSE	Retrospective planning application to regularise 4 x 3 m log cabin installed on a level base and 4.8X 4.4 m wooden decking.	Refused 21.10.2025; Appeal dismissed 24.02.2026 (Ref: 6001992)

- 2.4 A retrospective application (25/01693/HOUSE) seeking permission for the outbuilding and decking was refused on 21 October 2025 due to unacceptable loss of privacy, overbearing impact, and loss of outlook to No. 5 and, to a lesser extent, No. 3.
- 2.5 The appellant appealed this refusal, but the appeal was dismissed on 24 February 2026, with the Inspector concluding that the development results in a harmful loss of privacy to the occupiers of No.5 and that the harm could not be overcome by conditions.

- 2.6 The related householder appeal (Ref: 6001992) has therefore now been determined and dismissed. While the appellant requested that this appeal be considered alongside the Enforcement Notice appeal, the Inspector proceeded to determine the planning application appeal first. The dismissal of the planning appeal does not prevent the Enforcement Notice appeal from proceeding, nor does it alter the statutory grounds available under section 174.
- 2.7 The dismissal of the related householder appeal (Ref. 6001992) carries significant material weight in the context of this Enforcement Notice appeal. The Inspector's findings provide an up-to-date and authoritative assessment of the planning merits of the same development, including its effects on neighbouring living conditions. In dismissing the appeal, the Inspector concluded that the cabin and decking result in a harmful loss of privacy to No. 5 and that such harm cannot be mitigated by conditions, including screening or alterations to the steps. These conclusions directly confirm the planning harm identified by the Council and demonstrate that no reasonable lesser steps could make the development acceptable. As such, the appeal decision is a highly relevant material consideration that supports the necessity and proportionality of the Enforcement Notice requirements.

### **Implications of the Appeal Decision**

- 2.8 The Inspector's reasoning aligns with the Council's findings that the development causes a significant and harmful loss of privacy to the occupiers of No. 5 due to elevated sightlines from the decking and the position of the cabin close to the boundary. The decision confirms that these impacts amount to an unacceptable amenity harm that planning policy does not permit.
- 2.9 The Inspector specifically found that screening, obscure glazing, or other mitigation measures would conflict with the approved plans and would therefore fail the tests of reasonableness. This establishes that the harm cannot be addressed by minor modifications or partial retention — a key consideration when evaluating Ground (f).
- 2.10 Because the appeal has already examined and rejected the merits of the development, the Inspector's dismissal confirms that planning permission should not and cannot be granted for the cabin and decking (a matter relevant to Grounds (a) and (f)). This strengthens the Council's position that the Enforcement Notice is the appropriate mechanism to remedy the harm.

2.11 As the Inspector found that no alternative measures could overcome the harm, the decision provides strong support for the Council's view that complete removal of the outbuilding and raised decking is the only effective remedial step. This is directly relevant to Ground (f), which challenges whether the steps are excessive.

2.12 Given that unacceptable harm has been confirmed by the Inspector, the decision strengthens the justification for the Council's compliance period. The harm is ongoing, and the appeal decision emphasises that the development has an immediate and direct impact on the amenity of neighbouring residents.

### **Appeal Proposal**

2.13 The appellant appeals against the Enforcement Notice solely on Ground (f) and Ground (g) of section 174(2) of the Town and Country Planning Act 1990. They do not dispute that the outbuilding and decking were erected without planning permission, nor do they contend that the Enforcement Notice was improperly served.

2.14 Under Ground (f), the appellant argues that the steps required by the Enforcement Notice — namely, the complete removal of the wooden outbuilding, raised decking and balustrades — are excessive, and that “lesser steps” would overcome the Council's objections. To support this argument, the appellant has submitted mitigation “Options” including:

- retaining the structure with enhanced screening,
- reducing the size of the decking,
- removal of external stairs,
- installation of obscure glazing, and/or
- partial removal of the deck.

These options are presented as proportionate alternatives which, in the appellant's view, would address concerns relating to overlooking and overbearing impact.

2.15 Under Ground (g), the appellant contends that the two-month compliance period specified in the Notice is too short. They request an extension to six months, citing:

- the practical time needed to obtain contractors,
- weather constraints during winter months,
- waste-removal logistics, and
- financial considerations associated with dismantling and disposal of the structure.

They argue that two months does not provide a reasonable or realistic timeframe for compliance.

2.16 The appellant also highlights that a related householder appeal against the refusal of planning application 25/01693/HOUSE (which sought retrospective permission for the same development) has been submitted. They request that the Planning Inspector considers both appeals together for consistency.

### 3. Planning Policy

3.1 The Enforcement Notice was issued having regard to the following policies:

#### **National Planning Policy Framework (NPPF, 2024)**

Sections relating to design and residential amenity, including paragraphs requiring high-quality design, protection of neighbouring privacy, and prevention of overbearing development.

3.2 **West Berkshire Local Plan Review 2023–2041**

#### **SP7 – Design Quality**

Requires development to respect character, enhance local distinctiveness, and avoid harmful amenity impacts.

**DM28 – Residential Extensions**

Criterion F requires proposals not to be overbearing or detrimental to neighbouring amenity.

**DM30 – Residential Amenity**

Criteria B and C require protection of privacy, outlook, and avoidance of undue enclosure.

**3.3 Material Considerations**

The Expediency Report concluded that conditions could not overcome the harm caused and that enforcement action was necessary and proportionate.

## 4. Main Issues

4.1 The main issues in this appeal are:

- Whether the steps required to comply with the notice are excessive (**Ground f**).
- Whether the two-month compliance period falls short of what should reasonably be allowed (**Ground g**).

The planning merits of the development are *not* before the Inspector by virtue of section 174(2A), owing to the earlier refused application.

## 5. Response to Ground (f) Appeal

5.1 The Enforcement Notice requires removal of both the outbuilding and the raised decking. These steps are necessary to remedy the breach and the resulting planning harm.

5.2 The appellant argues that the exceedance over permitted development height is minor (35mm) and proposes alternative “Option” schemes involving altered decking, obscure glazing, stair removal, or screening.

5.3 However, the Council maintains that the harm does not arise from height alone, but from the positioning, elevation, relationship to boundaries, and resulting actual and perceived overlooking, as confirmed in:

- The application refusal
- Neighbour Objections
- Site Assessment
- Planning Enforcement Expediency Report

5.4 Mitigation options such as screening, glazing film, or partial deck removal cannot eliminate elevated sightlines into No. 5’s garden, ground-floor rooms and first-floor windows. The decking exceeds the 300mm permitted development threshold significantly, resulting in harmful views irrespective of later landscaping.

5.5 Options proposed by the appellant do not address:

- The overbearing massing close to the boundary
- The raised platform enabling direct overlooking
- Light spill from the existing external lighting
- Perceived dominance of the structure on rising ground

- 5.6 Given the scale, siting, and relationship to neighbours, the only effective way to remedy the amenity harm is complete removal, consistent with section 173(4)(b) of the Act.

### **Conclusion on Ground (f)**

- 5.7 The Council therefore submits that the steps are not excessive and are the minimum necessary to remedy the breach and its unacceptable impact.

## **6. Response to Ground (g) Appeal**

- 6.1 The Enforcement Notice specifies a compliance period of two months.
- 6.2 The appellant argues this is insufficient given contractor availability, cost, weather conditions and logistical challenges. They request six months.
- 6.3 The Council recognises that dismantling and removal of a timber outbuilding and deck requires planning and contractor arrangements. Nevertheless, the harm arising is ongoing and significant, affecting neighbours' privacy and amenity, as described in consultee comments and the planning refusal.
- 6.4 The structure was first identified in April 2025, and the owner pursued a retrospective application before enforcement action. The appellant has therefore already benefitted from significant additional time post-construction.
- 6.5 Given the ongoing and significant harm confirmed by the Inspector in dismissing the related householder appeal, the Council does not consider that any extension to the two-month compliance period is warranted. The owner has already benefitted from additional time as a result of the retrospective application process and the subsequent appeal, and the steps required—removal of a timber outbuilding and raised decking—are straightforward and capable of being undertaken within the period specified in the notice. In these circumstances, an extended compliance period would not be reasonable or proportionate.

### **Conclusion on Ground (g)**

- 6.6 Two months is a reasonable and proportionate compliance period. The Inspector, in dismissing the related householder appeal, confirmed that the development results in

ongoing and significant harm to the living conditions of neighbouring occupiers, particularly at No. 5, due to harmful overlooking from the elevated decking and the position of the cabin close to the boundary. Given this confirmed and continuing harm, it is important that the breach is remedied without unnecessary delay. The works required—removal of a timber outbuilding and raised decking—are straightforward and can be undertaken within the allotted period, particularly as we are now entering the spring and summer months when weather conditions and daylight hours are more favourable for outside construction and dismantling activities. In these circumstances, the Council does not consider that any extension to the compliance period is justified.

## 7. Conclusion

- 7.1 The breach of planning control has caused clear and ongoing harm to the residential amenity of neighbouring occupiers, particularly at No. 5. The unauthorised development conflicts with national and local policy and cannot be made acceptable through conditions or partial alterations.
- 7.2 The requirements of the Enforcement Notice are necessary and proportionate. The alternatives advanced by the appellant do not address the root causes of the harm and would not remedy the breach.
- 7.3 The compliance period of two months is reasonable. The development results in ongoing and significant harm to the residential amenity of neighbouring occupiers, as confirmed by the Inspector in dismissing the related householder appeal. The Council considers that the steps required by the notice—removal of a timber outbuilding and raised decking—are straightforward and can be undertaken within the two-month period specified. This is particularly the case given that we are now entering the spring and summer months, when weather conditions and daylight hours are more favourable for undertaking outdoor works. In these circumstances, the Council does not consider that an extended compliance period is justified.
- 7.4 The Council respectfully requests that the appeal be dismissed and the Enforcement Notice upheld.

## 8. Appendix A – Enforcement Notice



**IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**TOWN AND COUNTRY PLANNING ACT 1990  
(As amended by the Planning and Compensation Act 1991)**

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# **ENFORCEMENT NOTICE**

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**ISSUED BY: West Berkshire District Council (“the Council”)**

**1. THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

**2. THE LAND TO WHICH THE NOTICE RELATES**

Land at 4 Theobald Drive, Tilehurst, Reading, RG31 6YA, shown edged in red on the attached plan.

**3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

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.

**4. REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has occurred within the last four years and that it is expedient to issue this notice 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 amenity of nearby residents by virtue of loss of outlook. This is endorsed by criteria C of Policy DM30, while criteria B of 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.

## 5. WHAT YOU ARE REQUIRED TO DO

You must:

- 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. TIME FOR COMPLIANCE

The period for compliance with the steps set out in paragraph 5 begins on the date this notice takes effect and will end on 11<sup>th</sup> February 2026. All the steps in paragraph 5 above must be complied with in full no later than 11<sup>th</sup> February 2026.

## 7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 11<sup>th</sup> December 2025 unless an appeal is made against it beforehand.

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**Dated:** 30<sup>th</sup> October 2025

**Signed:**



Bob Dray, Development Manager

**On behalf of:** West Berkshire District Council, Council Offices, Market Street, Newbury, RG14 5LD

**Nominated Officer:** Mrs Fenella Woods

**Telephone Number:** 01635 519451

**Email:** fenella.woods1@westbeks.gov.uk

**Reference:** 24/00489/15UNAU

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## ANNEX

**WEST BERKSHIRE COUNCIL** has issued an Enforcement Notice relating to 4 Theobald Drive, Tilehurst, Reading, RG31 6YA and you are served with a copy of that Notice as you have an interest in the Land. Copies of the Notice have also been served on the parties listed at the end of this Annex.

### **YOUR RIGHT OF APPEAL**

You can appeal against this enforcement notice, but any appeal must be **received**, or posted in time to be **received**, by the Planning Inspectorate acting on behalf of the Secretary of State before the date specified in paragraph 7 of the notice.

The enclosed information sheet published by the Planning Inspectorate gives details of how to make an appeal. A copy is also available at the following link:  
<http://www.planningportal.gov.uk/uploads/pins/eninfosheet.pdf>

### **WHAT HAPPENS IF YOU DO NOT APPEAL**

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period[s] specified in paragraph 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

## EXPLANATORY NOTE

Any appeal must be received by the Planning Inspectorate (or be posted or electronically communicated at such time that, in the ordinary course of post or transmission, it would be delivered to the Planning Inspectorate) before 11<sup>th</sup> December 2025.

If you want to appeal against this enforcement notice you can do it:

- Online at the Appeals Casework Portal (<https://acp.planninginspectorate.gov.uk/> )
- By getting enforcement appeal forms from the Planning Inspectorate on 0303 444 5000 or by e-mailing the Planning Inspectorate at [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

**You MUST make sure that the Planning Inspectorate RECEIVE your appeal BEFORE the effective date on the enforcement notice.**

Please also read the enclosed appeal guidance documents, also available at <https://www.gov.uk/appeal-enforcement-notice/how-to-appeal>.

Please note that a separate appeal form must be completed for each individual person or organisation.

In exceptional circumstances you may give written notice of appeal by letter or email. You should include the name and contact details of the appellant(s) and either attach a copy of the Enforcement notice that you wish to appeal or state the following:

- the name of the local planning authority;
- the site address; and
- the effective date of the enforcement notice.

The Planning Inspectorate MUST receive this BEFORE the effective date on the enforcement notice. This should immediately be followed by your completed appeal forms.

The Planning Inspectorate's address and contact details are as follows:

The Planning Inspectorate  
CST Room 3/13  
Temple Quay House  
2 The Square  
BRISTOL BS1 6PN  
Direct line: 0303 444 5000

### **GROUND OF APPEAL**

Under Section 174 of the Town and Country Planning Act 1990, as amended, you may appeal on one or more of the following grounds:-

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) 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 those matters;
- (e) that copies of the notice were not served as required by Section 172;

- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, 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;
- (g) that any period specified in the notice in accordance with Section 173(9) falls short of what should reasonably be allowed.

Please note that not all of the above grounds may be relevant to you.

### **STATEMENT OF GROUNDS OF APPEAL**

If you decide to appeal, when you submit it, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.

### **PLANNING APPLICATION FEE**

If you appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990, as amended, this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee of £262.00 to West Berkshire District Council. If the fee is not paid then that ground of appeal will not be valid. Joint appellants need only pay one set of fees.

### **STATUTORY PROVISIONS**

A copy of the relevant statutory provisions in sections 171A, 171B and 172 to 177 of the Town and Country Planning Act 1990 is attached for your information. These provisions can also be viewed online at the following links:

<https://www.legislation.gov.uk/ukpga/1990/8/part/VII/crossheading/introductory>

<https://www.legislation.gov.uk/ukpga/1990/8/part/VII/crossheading/enforcement-notice>

### **WHAT HAPPENS IF YOU DO NOT APPEAL**

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period[s] specified in paragraph 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

### **RECIPIENTS OF THE ENFORCEMENT NOTICE**

The names and addresses of all persons on whom the notice was served:

- (a) [REDACTED]

## **STATUTORY PROVISIONS**

### **S171A.— Expressions used in connection with enforcement.**

(1) For the purposes of this Act—

(a) carrying out development without the required planning permission; or  
(b) failing to comply with any condition or limitation subject to which planning permission has been granted,  
constitutes a breach of planning control.

(2) For the purposes of this Act—

(a) the issue of an enforcement notice (defined in section 172); or  
(b) the service of a breach of condition notice (defined in section 187A),  
Constitutes taking enforcement action.

(3) In this Part “planning permission” includes permission under Part III of the 1947 Act, of the 1962 Act or of the 1971 Act.

### **S171B.— Time limits.**

(1) 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.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

[(2A) There is no restriction on when enforcement action may be taken in relation to a breach of planning control in respect of relevant demolition (within the meaning of section 196D).

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

(4) The preceding subsections do not prevent—

(a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or

(b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.”

### **S172.— Issue of enforcement notice.**

(1) The local planning authority may issue a notice (in this Act referred to as an “enforcement notice”) where it appears to them—

(a) that there has been a breach of planning control; and

(b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.

(2) A copy of an enforcement notice shall be served—

(a) on the owner and on the occupier of the land to which it relates; and

(b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.

(3) The service of the notice shall take place—

(a) not more than twenty-eight days after its date of issue; and

(b) not less than twenty-eight days before the date specified in it as the date on which it is to take effect.

### **S172A Assurance as regards prosecution for person served with notice**

(1) When, or at any time after, an enforcement notice is served on a person, the local planning authority may give the person a letter—

(a) explaining that, once the enforcement notice had been issued, the authority was required to serve the notice on the person,

(b) giving the person one of the following assurances—

- (i) that, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the enforcement notice, or
  - (ii) that, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the matters relating to the enforcement notice that are specified in the letter,
  - (c) explaining, where the person is given the assurance under paragraph (b)(ii), the respects in which the person is at risk of being prosecuted under section 179 in connection with the enforcement notice, and
  - (d) stating that, if the authority subsequently wishes to withdraw the assurance in full or part, the authority will first give the person a letter specifying a future time for the withdrawal that will allow the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.
- (2) At any time after a person has under subsection (1) been given a letter containing an assurance, the local planning authority may give the person a letter withdrawing the assurance (so far as not previously withdrawn) in full or part from a time specified in the letter.
- (3) The time specified in a letter given under subsection (2) to a person must be such as will give the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.
- (4) Withdrawal under subsection (2) of an assurance given under subsection (1) does not withdraw the assurance so far as relating to prosecution on account of there being a time before the withdrawal when steps had not been taken or an activity had not ceased.
- (5) An assurance given under subsection (1) (so far as not withdrawn under subsection (2)) is binding on any person with power to prosecute an offence under section 179.

**S173.— Contents and effect of notice.**

- (1) An enforcement notice shall state—
- (a) the matters which appear to the local planning authority to constitute the breach of planning control; and
  - (b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.
- (2) A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.
- (3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.
- (4) Those purposes are—
- (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or
  - (b) remedying any injury to amenity which has been caused by the breach.
- (5) An enforcement notice may, for example, require—
- (a) the alteration or removal of any buildings or works;
  - (b) the carrying out of any building or other operations;
  - (c) any activity on the land not to be carried on except to the extent specified in the notice; or
  - (d) the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.
- (6) Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this section referred to as a “replacement building”) which, subject to subsection (7), is as similar as possible to the demolished building.
- (7) A replacement building—
- (a) must comply with any requirement imposed by any enactment applicable to the construction of buildings;

(b) may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;

(c) must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (a) and (b)).

(8) An enforcement notice shall specify the date on which it is to take effect and, subject to sections 175(4) and 289(4A), shall take effect on that date.

(9) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.

(10) An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 174.

(11) Where—

(a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and

(b) all the requirements of the notice have been complied with,  
then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.

(12) Where—

(a) an enforcement notice requires the construction of a replacement building; and

(b) all the requirements of the notice with respect to that construction have been complied with,

planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.

### **S173A.— Variation and withdrawal of enforcement notices.**

(1) The local planning authority may—

(a) withdraw an enforcement notice issued by them; or

(b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).

(2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.

(3) The local planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.

(4) The withdrawal of an enforcement notice does not affect the power of the local planning authority to issue a further enforcement notice.

### **S174.— Appeal against enforcement notice.**

(1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.

[(2) An appeal may be brought on any of the following grounds—

(a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;

(b) that those matters have not occurred;

(c) that those matters (if they occurred) do not constitute a breach of planning control;

(d) 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 those matters;

- (e) that copies of the enforcement notice were not served as required by section 172;
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, 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;
- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

[(2A) An appeal may not be brought on the ground specified in subsection (2)(a) if—

- (a) the land to which the enforcement notice relates is in England, and
- (b) the enforcement notice was issued at a time—
  - (i) after the making of a related application for planning permission, but
  - (ii) before the end of the period applicable under section 78(2) in the case of that application.

(2B) An application for planning permission for the development of any land is, for the purposes of subsection (2A), related to an enforcement notice if granting planning permission for the development would involve granting planning permission in respect of the matters specified in the enforcement notice as constituting a breach of planning control.

[(2C) Where any breach of planning control constituted by the matters stated in the notice relates to relevant demolition (within the meaning of section 196D), an appeal may also be brought on the grounds that—

- (a) the relevant demolition was urgently necessary in the interests of safety or health;
- (b) it was not practicable to secure safety or health by works of repair or works for affording temporary support or shelter; and
- (c) the relevant demolition was the minimum measure necessary.

(3) An appeal under this section shall be made [...] 4

- (a) by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or
- (b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date [;

or] 4  
(c) by sending such notice to him using electronic communications at such time that, in the ordinary course of transmission, it would be delivered to him before that date.

(4) A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing—

- (a) specifying the grounds on which he is appealing against the enforcement notice; and
- (b) giving such further information as may be prescribed.

(5) If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.

(6) In this section “relevant occupier” means a person who—

- (a) on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence [...] 5

; and

- (b) continues so to occupy the land when the appeal is brought

### **S175.— Appeals: supplementary provisions.**

(1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without prejudice to the generality of this subsection, may—

- (a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
- (b) specify the matters to be included in such a statement;
- (c) require the authority or the appellant to give such notice of such an appeal as may be prescribed;

(d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.

(2) The notice to be prescribed under subsection (1)(c) shall be such notice as in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated.

(3) Subject to section 176(4), the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

[(3A) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in England.

[(3B) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in Wales.

(4) Where an appeal is brought under section 174 the enforcement notice shall [subject to any order under section 289(4A)] 3

be of no effect pending the final determination or the withdrawal of the appeal.

(5) Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

(6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.

#### **S176.— General provisions relating to determination of appeals.**

[(1) On an appeal under section 174 the Secretary of State may—

(a) correct any defect, error or misdescription in the enforcement notice; or

(b) vary the terms of the enforcement notice,

if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.

(2) Where the Secretary of State determines to allow the appeal, he may quash the notice.

(2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.

(3) The Secretary of State—

(a) may dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and

(b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a), (b), or (d) of section 175(1) within the prescribed period.

(4) If [section 175(3) would otherwise apply and] 2

the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) [of this section] 3

or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section 175(3).

(5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

#### **S177.— Grant or modification of planning permission on appeals against enforcement notices.**

(1) On the determination of an appeal under section 174, the Secretary of State may—

(a) grant planning permission 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;

(b) discharge any condition or limitation subject to which planning permission was granted;

(c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.

[(1A) The provisions of sections 191 to 194 mentioned in subsection (1B) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 191, but as if—

(a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and

(b) references to the local planning authority were references to the Secretary of State.

(1B) Those provisions are: sections 191(5) to (7), 193(4) (so far as it relates to the form of the certificate), (6) and (7) and 194.

[(1C) If the land to which the enforcement notice relates is in England, subsection (1)(a) applies only if the statement under section 174(4) specifies the ground mentioned in section 174(2)(a).

(2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.

[(3) The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.

(4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

[Where an appeal against an enforcement notice is brought under section 174 and—

(a) the land to which the enforcement notice relates is in Wales, or

(b) that land is in England and the statement under section 174(4) specifies the ground mentioned in section 174(2)(a),

the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control.

[(5A) Where—

(a) the statement under subsection (4) of section 174 specifies the ground mentioned in subsection (2)(a) of that section;

(b) any fee is payable under regulations made by virtue of section 303 in respect of the application deemed to be made by virtue of the appeal; and

(c) the Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid,

then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.

(6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.

(7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.

(8) For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.

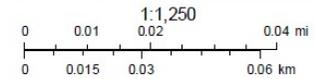
# 9. Appendix B – Red Line Plan

24/00489/15UNAU



23/10/2025, 17:55:47

- Points**
  - ⊗ Override 1
- Areas**
  - DISTRICT BOUNDARY
  - Override 1



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# 10. Appendix C – Expediency Report

## PLANNING ENFORCEMENT EXPEDIENCY REPORT

Case Reference:	24/00489/15UNAU
Site:	4 Theobald Drive Tilehurst Reading RG31 6YA
Alleged Breach:	A new wooden building has been built on a concrete foundation next to the boundary in the rear garden. The height appears to be over 2.5m. A large elevated decking area has been built at an approx. height of 900mm accessed by 5 steps. Two sections of the wire boundary fence removed and a live power cable has been installed on the ground
Report Date:	23.10.2025
Case Officer:	Fenella Woods

### 1. INTRODUCTION

The purpose of this report is to consider whether it is expedient to take enforcement action against the alleged breach of planning control.

This expediency report follows a complaint relating to a wooden outbuilding and raised decking at 4 Theobald Drive, Tilehurst (“the land”).

A retrospective planning application (ref: 25/01693/HOUSE) was submitted and subsequently refused on the grounds of unacceptable impact on the privacy of neighbouring properties.

### 2. SITE DESCRIPTION

The site is on the south side of Oxford Road in the settlement boundary of Calcot Purley Tilehurst. On the site is a large, detached dwelling with a long rear garden. The unauthorised wooden outbuilding is located in the rear garden, with an elevated timber deck due to how the garden naturally slopes towards the house.

Surrounding development comprises residential properties. The lawful use of the land is residential.

### 3. PLANNING HISTORY

Reference	Description	Status
79/11957/ADD	Extension to kitchen dining room and lounge	Approved on 10 <sup>th</sup> December 1979.
25/01693/HOUSE	Retrospective planning application to regularise 4 x 3 m log cabin installed on a level base and 4.8X 4.4 m	Refused on 21 <sup>st</sup> October 2025.

	wooden decking. The log cabin height is 241.5 cm, and its base starts just above ground level. Decking with steps.	
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The 25/01693/HOUSE listed above sought to regularise the breach via an application but it was refused on the grounds of 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.

#### 4. SITE VISITS AND ACTIONS

I visited the site on 15<sup>th</sup> April 2025 and collaborated with the homeowner on the submission of the retrospective application in the hope it could be regularised. Photographs were taken and measurements were recorded. The structure was confirmed to be newly erected and not immune from enforcement. The retrospective application was refused and the owner notified in the usual manner.

#### 5. EVIDENCE OF BREACH

The alleged breach of planning control relates to operational development.

What breach is taking place?	The erection of a wooden outbuilding and raised decking and balustrades.
Is it 'development' or 'works'?	Development
Is it 'de minimis'?	No
Is it permitted development?	No – due to the raised decking
Is it a breach of condition or limitation?	No
Is what is occurring controlled by other planning related controls?	No
Any other comments pertinent to whether there has been a breach of planning control	The structure is substantial, elevated, and positioned close to neighbouring boundaries, resulting in both actual and perceived overlooking.
Conclusion	There has been a breach of planning control that relates to operational development.

#### 6. POWER TO ENFORCE

When was the development substantially complete, as defined by the Town and Country Planning Act 1990?	15 <sup>th</sup> April 2025
When did any material change of use occur?	N/A
When did the breach commence?	Prior to 15 <sup>th</sup> April 2025
Has any permission / consent been granted?	No – application ref 25/01693/HOUSE was refused on 21 <sup>st</sup> October 2025.
Have conditions been imposed on any grant of permission / consent?	No
Was the development carried out using deception?	No

Conclusion	The Council has the power to enforce under section 172 of the Town and Country Planning Act 1990.
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## 7. SITE CONSTRAINTS

- Residential Area
- Proximity to neighbouring dwellings
- No Article 4 Direction
- No Conservation Area or Listed Building Constraints

## 8. CONSULTATION

There were no internal or external consultations.

Consultee	Response
Purley on Thames Parish Council	<p>Purley on Thames Parish Council Planning Committee had no objections to the application via the email sent to the Committee on 3/9/2025. However please consider the following:</p> <ul style="list-style-type: none"> <li>• There are several lights on the building. Has light spill been checked?</li> <li>• Has there been any impact on trees (removal) in the garden?</li> </ul>
Neighbour at No. 5	<p>Strongly objected to the retrospective application, citing significant loss of privacy caused by the elevated decking and cabin. The deck exceeds the 300mm permitted development threshold and allows direct views into ground and first-floor rooms of the neighbouring property, resulting in both actual and perceived overlooking. The cabin includes a side window above fence level and a floodlight that causes light intrusion into bedroom windows, particularly during darker months. The resident also raised concerns about inaccurate plans, proximity to the boundary (closer than shown), and lack of prior consultation. The development has materially harmed residential amenity and enjoyment of their home.</p>
Tree Team	<p>TPO - 26 CA - no</p> <p>The application is retrospective. The south of the garden is covered by TPO 26 Woodland which covers the location of the Parish boundary, however this development has occurred away from that area.</p> <p>Given the elevation of the new outbuilding on land which rises to the south and relative to neighbouring properties, some screening landscaping might be considered appropriate by the Planning Officer. Therefore, I have suggested a landscaping condition.</p>

## 9. RELEVANT PLANNING POLICIES

- National Planning Policy Framework (NPPF) – Paragraphs relating to amenity and privacy
- 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 amenity of nearby residents by virtue of loss of outlook'
- Criteria B of Policy DM30 states that development should not be overlooking, causing harmful loss of privacy'
- Criteria C of Policy DM30

## 10. EXPEDIENCY ASSESSMENT

The development causes unacceptable harm to the privacy of neighbouring properties, particularly No. 5 and to a lesser extent No. 3. The impact is both actual and perceived due to the elevated position and proximity to boundaries.

The refusal of the retrospective application confirms that planning permission should not be granted. Conditions could not overcome the harm caused.

It is therefore expedient to take enforcement action to remedy the breach.

## 11. OTHER CONSIDERATIONS

Human Rights	The right to respect for private and family life (Article 8) has been considered. The interference is proportionate and justified in the public interest.
Public Sector Equality Duty	No specific impacts identified.
Bests interests of the child	No specific impacts identified.
Other	None

## 12. RECOMMENDED ACTION

Issue an enforcement notice requiring the removal of the unauthorised wooden outbuilding and raised decking and balustrades.

## 13. AUTHORISATION

<b>Recommendation</b>	
Recommended action	The service of an Enforcement Notice
Recommendation by	Fenella Woods
Signed	
Date	23.10.2025
<b>Authorisation</b>	
Authorised by	Bob Dray
Signed	
Date	27.10.2025

Photos



