WRITTEN REPRESENTATIONS: RESPONSE TO LPA STATEMENT

BY

Mr Jomon George

FOLLOWING THE ISSUING OF AN ENFORCEMENT NOTICE BY:

West Berkshire Council

APPEAL REF:

APP/W0340/C/25/3376703

FOR:

Without planning permission, the erection of a wooden outbuilding with raised decking

AT:

4 Theobald Drive, Tilehurst, Reading, RG31 6YA

March 2026

1.0 Background

1.1 This statement is prepared on behalf of Mr Jomon George in response to the LPA's statement following the submission of appeal ref APP/W0340/C/25/3376703 in response to council reference 24/00489/15UNAU.

2.0 LPA statement

Introduction

2.1 The council state at paragraph 1.2 that their site visit took place on 15th April 2025. In fact, the council's site visit took place in early January 2025 and enforcement contacted the appellant six months later on 25th June 2025.

Ground (f) appeal

2.2 Under ground (f), the question is whether the steps required exceed what is necessary to remedy the breach or the injury to amenity. The Council has not addressed this test at all.

2.3 Instead of demonstrating why full demolition is the minimum necessary step, the Council simply repeats the reasons for refusing the planning application and the conclusions of the previous section 78 appeal (as referenced throughout Sections 2.5–2.12 of the Council's Statement of Case). That decision was made on planning merits and did not consider enforcement proportionality, the availability of lesser steps, the potential for variation of a notice, or the permitted development fallback. In particular, the Inspector's decision addressed only the scheme as submitted at that time and did not assess any alternative mitigation or revised arrangements now before this appeal. The Inspector did not conclude that mitigation measures such as screening would be ineffective; rather, such measures were not before him as part of the submitted scheme and were therefore not assessed. The statutory framework for enforcement is different, and reliance on the earlier appeal does not discharge the Council's burden under ground (f).

2.4 The Council has not engaged with the appellant's mitigation proposals (referred to at paragraph 2.14 of the Council's Statement). Four structured, proportionate options were submitted, each designed to address the specific concerns identified by the Council. The council's Statement of Case does not assess any of them. It does not explain why screening would not address perceived overlooking, why removal of stairs would not reduce sightlines, why obscure glazing would not mitigate privacy concerns, or why modest reductions in decking depth would not reduce any perceived overbearing effect. The Council dismisses all mitigation in a single sentence without analysis (see paragraph 5.4). This is not a lawful or reasoned assessment of whether lesser steps could achieve the purpose of the notice.

2.5 The Council has also not addressed the permitted development fallback scheme submitted within the statutory deadline. These demonstrate that a materially similar structure could lawfully be erected on the site. This fallback position is a well-established material consideration in enforcement appeals and must be taken into account when assessing whether the steps required exceed what is necessary. If a comparable building could be constructed without planning permission, it cannot logically be the case that only total demolition of the existing structure can remedy the alleged injury to amenity. The fallback evidence directly undermines the Council's assertion that no lesser steps exist.

2.6 In addition, the permitted development fallback scheme has been refined to address the concern raised in the previous appeal that the cabin and decking could not be clearly separated. The revised arrangement introduces a physical gap between the cabin access platform and the decking, limits the decking to a maximum height of 30cm, and converts any part of the access platform above 30cm into a non-walkable planter. These changes demonstrate that a compliant and clearly defined PD solution is achievable, further undermining the Council's position that only total demolition can remedy the alleged harm

2.7 The Council repeatedly characterises the development as large, prominent or overbearing (see paragraphs 2.2, 5.3 and 5.5), yet the breach identified in the notice is a 35mm exceedance over permitted development height and modest decking levels of 120mm and 220mm. The Council does not dispute these measurements and does not explain how a structure that would be lawful at 2.5m becomes unacceptable at 2.535m. The difference is negligible, and the Council has not demonstrated that this marginal variance necessitates complete removal. The requirement for total demolition is therefore disproportionate to the nature of the breach.

2.8 The Council also refers to matters such as light spill and perceived dominance (paragraph 5.5), yet the enforcement notice does not require removal of lighting or any other features beyond the outbuilding and decking. These points are irrelevant to the statutory test and cannot justify the most extreme remedy available. Furthermore, the Inspector's decision did not identify lighting or overbearing impact as determinative issues in dismissing the earlier appeal, which was focused on privacy effects.

2.9 The Council further relies on assertions of "ongoing" and "immediate" harm (see paragraphs 2.12 and 6.6), however no assessment has been made of the current on-site situation. Since the original application and appeal, additional screening and mitigation measures have been implemented, including boundary treatments and planting, which materially reduce, and in practice remove, overlooking towards No. 5. This updated position has not been acknowledged or assessed in the Council's Statement.

2.10 In summary, the Council has not demonstrated that full demolition is the minimum necessary step to remedy the breach or the alleged injury to amenity. It has not assessed the appellant's mitigation options, has not addressed the permitted development fallback, and has relied on planning merits rather than the statutory test. The requirements of the notice therefore exceed what is necessary, and the Inspector is invited to vary the notice accordingly.

Ground (g) appeal

2.11 The Council's justification for a two month compliance period is again based almost entirely on planning harm, privacy concerns and the findings of the earlier appeal (see paragraphs 6.3–6.6). These matters are not relevant to ground (g). The correct question is whether the period allowed is reasonable for carrying out the steps required.

2.12 The removal of an outbuilding and associated decking is not a minor task. It requires contractor availability, safe dismantling on sloping ground, lawful waste disposal, and financial planning. The Council does not dispute any of these practical realities. It simply states that the works are "straightforward", without providing any evidence or analysis. Contractor lead times frequently exceed two months, particularly during winter or peak periods, and arranging licensed waste carriers or skip hire also requires advance booking. These are normal and predictable constraints that the Council has not considered.

2.13 The Council's reliance on the fact that "spring and summer" are approaching (paragraph 6.6) is misplaced. The compliance period runs from the date of the Inspector's decision, not from the date of the Council's Statement. The Council cannot assume favourable weather or daylight hours, and such assumptions cannot form the basis of a lawful compliance period.

2.14 The suggestion that the appellant has "already benefitted from time" because a retrospective application and appeal were submitted (paragraph 6.4) is not a lawful reason to shorten a compliance period. The appellant has acted responsibly throughout by engaging with the planning process, submitting mitigation options and providing a permitted development fallback scheme. None of this justifies a compressed compliance period.

2.15 As highlighted the appellant has put forward a clear and lawful fallback position under Class E of the GPDO, including the option of constructing the outbuilding under ground (f). Were the Council to resist this permitted development route, the appellant would be placed under an unnecessary financial and practical burden to achieve an outcome that planning legislation already allows. This would serve no public interest purpose and would simply impose avoidable hardship without delivering any corresponding planning benefit

2.16 Furthermore, during this period the appellant has actively implemented mitigation measures in an attempt to address the Council's concerns, demonstrating a constructive and cooperative approach rather than delay. It is also noted that there was a significant period between the Council's initial awareness of the development and the progression of enforcement action, during which the appellant was encouraged to pursue a retrospective application. This context further undermines the suggestion that urgent compliance within two months is necessary.

2.17 A six month period is reasonable and proportionate. It allows safe dismantling, lawful waste disposal, contractor availability and financial planning, while still ensuring that the Council's objectives are met within a fair timeframe. The Council has provided no evidence to justify a shorter period.

3.0 Conclusion

3.1 In summary, 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.