



Appeal Decisions

Site visit made on 8 November 2022

by Jean Russell MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2023

Appeal A: APP/N5090/C/20/3258574

Land at 21 Grange Avenue, Barnet, EN4 8NJ

- Appeal A is made by Ms Svetlana Daskalova under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: ENF/0472/20) issued by the Council of the London Borough of Barnet on 3 August 2020.
- The breach of planning control as alleged in the notice is: without planning permission, the erection of a canopy extension incorporating raised decking and associated steps at the rear of the property.
- The requirements of the notice are to:
 1. Demolish the rear canopy extension, raised decking and associated steps shown on attached [to the notice] Photograph 01.
 2. Permanently remove all constituent materials resulting from the works [described] in [step] 1 above from the property.
- The period for compliance with the requirements of the notice is three (3) months.
- Appeal A is proceeding on the grounds set out under section 174(2)(a), (b), (c), (d) and (f) of the Town and Country Planning Act 1990. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Town and Country Planning Act 1990.

Summary of Decision: Appeal A is allowed, the enforcement notice is corrected and quashed, and planning permission is granted subject to conditions as set out in the Formal Decision below.

Appeal B: APP/N5090/W/20/3256819

21 Grange Avenue, East Barnet, Barnet, EN4 8NJ

- Appeal B is made by Ms Svetlana Daskalova under section 78 of the Town and Country Planning Act 1990 against the decision of the Council of the London Borough of Barnet to refuse to grant planning permission.
- The planning application (ref: 20/2259/RCU) was dated 20 May 2020 and refused by notice dated 17 July 2020.
- The development proposed is the retention of rear raised level patio with canopy.

Summary of Decision: Appeal B is allowed, and planning permission is granted subject to conditions as set out in the Formal Decision below.

PRELIMINARY MATTERS

The Site, the Development and the Appeals

1. Grange Avenue is a suburban residential road that runs roughly from east to west, but slopes from north to south. The back gardens at properties on the south or appeal side of the road fall steeply away from land to the front.
2. 21 Grange Avenue, the subject of Appeals A and B, is the 'ground floor' flat or maisonette in what was previously a semi-detached house. The first floor flat is numbered 21A and I shall refer to the building containing both dwellings as '21/21A Grange Avenue'. The original back garden is divided vertically so that

each flat has its own private amenity space. Given the slope of the land, there are steps on the eastern side of the building leading down to the gardens.

3. Appeals A and B are concerned with the same development although, as set out in the banner heading above, it was described differently by the Council on the enforcement notice and the appellant on her planning application form. I shall refer to the structure as the 'canopy extension'. It is described in more detail below, but it is positioned outside the French doors of the appeal flat, and it essentially consists of 'decking' with a canopy roof above and steps leading down to the garden below.
4. The appellant has proposed a new description of development for Appeal B and the original is flawed to the extent that the 'retention' of something is not strictly 'development'. However, it follows from my reasoning below that planning permission is being sought for operations that went beyond the 'part extension of patio with canopy and screen'. I shall decide Appeal B as made in respect of a 'rear raised level patio with canopy' as applied for.
5. The enforcement notice was issued after the application had been refused and appealed. The appellant suggests that it could not have been 'expedient', and there was a risk of infringement of her human rights, for the Council to issue the notice without waiting for a decision on Appeal B. Under s172(1) of the Town and Country Planning Act 1990 (TCPA90), a local planning authority (LPA) may issue a notice where it appears to them that doing so is expedient as well as that there has been a breach of planning control.
6. The planning merits of the canopy extension, with regard to the appellant's human rights, are before me. But expediency is not because that is a matter for the Council to decide with regard not only to the development plan, but also other material considerations which may include the Council's own corporate priorities. The TCPA90 makes no provision for a notice to be appealed on expediency grounds.
7. Since both concern the same extension, the planning application subject to Appeal B raises identical issues to the deemed planning application (DPA) arising from Appeal A proceeding on ground (a)¹. I shall determine Appeal B together with Appeal A on ground (a) but must firstly address other questions about the notice and the enforcement 'legal' grounds of appeal.

The Enforcement Notice

8. S176(1)(a) of the TCPA90 allows me to correct any error, defect or misdescription in the enforcement notice so long as doing so would cause no injustice to the Council or appellant. If injustice would be caused, the notice will be not correctable and invalid.
9. A notice is a nullity if it is so defective on its face that it does not amount to an enforcement notice in law at all and the question as to whether corrections would cause injustice cannot arise. That might be the case if the notice is hopelessly ambiguous and uncertain, or it does not include what is required under s173 of the TCPA90 and the Town and Country Planning (Enforcement Notices and Appeals) Regulations 2002 (the Enforcement Regulations).

¹ Ground (a) is that planning permission ought to be granted for what is alleged by the notice.

10. The appellant suggests that the notice is defective firstly because it does not describe the alleged development accurately or with sufficient specificity. However, she has not shown that the allegation is hopelessly ambiguous or uncertain. The notice is not null in this respect, but I shall consider the accuracy of the allegation through Appeal A on ground (b).
11. The second concern raised by the appellant is that the notice should not have stated that a fee would be payable for ground (a) and the DPA because she had already paid for the planning application subject to Appeal B. However, that fee information was not set out on the face of the notice, but in what was clearly a standard cover letter. The letter did not deter the appellant from making Appeal A and the Planning Inspectorate wrote to her on 31 August 2020 to confirm that the DPA was fee exempt.
12. Enforcement Regulation 4(b) requires that an enforcement notice shall specify all development plan policies which were relevant to the decision to issue the notice. However, the Council is not expected to predict what policies may be considered relevant (or not) by the appellant or indeed interested parties or myself. I am satisfied that the notice was drafted and issued in accordance with Enforcement Regulation 4(b).
13. The appellant also suggests that there has been a failure to comply with Enforcement Regulation 4(c), which requires that the notice must specify the precise boundaries of the land to which it relates. The plan attached to the notice shows the appeal site as including the garden at no. 21A and I agree that is wrong. However, the boundaries of the land must be specified 'by reference to a plan or otherwise'. Since the notice gives the precise address of the land in paragraph 2, it is not nullified by the mistake on the plan. I can correct the notice by deleting the plan without causing any injustice.
14. The appellant's final concern about the notice is that the Council did not exercise due care and diligence in identifying who should be served with a copy and listed as served in the explanatory note accompanying the notice. These objections do not show that the notice itself is defective. They amount to a hidden appeal on ground (e) which concerns matters of service.
15. Subject to my findings on ground (b), the only error on the face of the notice is that the site is drawn too widely on the plan. That does not render the notice null or invalid; it can be corrected without causing injustice.

APPEAL A ON GROUND (E)

16. Ground (e) is that copies of the enforcement notice were not served as required by s172 of the TCPA90. Under s172(2)(a), copies shall be served on the owner and the occupier of the land to which the notice relates. For ground (e) and the other 'legal' grounds, namely (b), (c) and (d), the onus is on the appellant to make her case on the balance of probabilities.
17. On the date of service, the Council knew from her planning application that the appellant was the owner and occupier of the appeal flat. However, they served three notices on her – one in her name, one upon her as 'owner' and one as 'occupier' – 'in an act that the appellant says constitutes harassment'. I can certainly understand why she considered triplicate service unnecessary.
18. However, the Council probably served three notices as it did simply to ensure and to demonstrate compliance with s172(2)(a). As a rule, LPAs have no

choice but to serve notices on the 'owner' or 'occupier(s)' where such persons are unknown. And it is not unusual for any organisation to send official correspondence to the 'owner' and/or 'occupier' even when they have such names on record. I can scarcely recall an enforcement appeal where the notice was **not** served on the 'owner' and 'occupier(s)' instead of or alongside any named recipients.

19. Under s174(1) of the TCPA90, a person having an interest in the land, or a 'relevant occupier' may make an appeal against an enforcement notice whether or not a copy was served on them. Such persons who are served as the 'owner' or 'occupier' are not prevented from nor prejudiced in making an appeal in their own name, as the appellant plainly did.
20. The appellant says that the 'three different' notices she received were served 'in three different envelopes'. I interpret that submission as meaning 'three **separate** notices'. She has not said, and her evidence cannot be read as implying that the notices differed in their contents. Since the appellant knew she was the owner and the occupier, it should have been apparent to her either when she realised that the notices were the same, or when she took professional advice, that the three notices had been served as a formality.
21. Enforcement Regulation 5(c) requires that every copy of an enforcement notice be accompanied by an explanatory note which lists the names and addresses of the persons served. The appellant suggests it should have sufficed for the Council to give her name and address, but I disagree. The Council was required to list all who had been served even if that meant repetition because the appellant, owner and occupier were the same.
22. There is no dispute that a copy of the notice was properly served on the freeholder of the appeal site. Thus, the appellant has not shown that copies of the notice were not served as required by s172 on the balance of probabilities. Appeal A fails on ground (e).

APPEAL A ON GROUND (B)

23. An appeal on ground (b) is that what is alleged by the enforcement notice has not occurred; this will be a question of fact and degree. The appellant disputes the accuracy of the allegation in two respects.
24. Firstly, the appellant has shown – as discussed further in relation to ground (d) – that there was a pre-existing 'terrace' to the appeal flat. The terrace was in the same place as the canopy extension, in that it was accessed through French doors in the living room of the flat. Since the terrace comprised decking, railings and steps supported by pillar posts, – much like what is there now – I must consider whether 'the erection of a canopy extension incorporating raised decking and associated steps' did occur as alleged.
25. The appellant has conceded that the pre-existing decking and steps were removed because the 'planks and step boards had become rotten and were unsafe'. It is probable that the appeal decking and steps are formed from new timber. The evidence also suggests that the canopy extension is wider than and about twice as deep as the former terrace, and it is enclosed by new safety railings to the front and eastern side, plus a polycarbonate privacy screen above a wooden panel on the side to 23 Grange Avenue. Works were

further carried out to erect not only the timber and polycarbonate canopy roof but also an enclosed storage area below the decking.

26. I do not dispute the appellant's claim that the pillar posts which supported the terrace steps were retained, but that is not enough to make it probable that what is alleged did not occur. Works to an existing structure or building can be so extensive that they result, as a matter of fact and degree, in something new. The retained posts represent a small part of the canopy extension; they are not even the only supporting columns. Thus, building operations probably took place which amounted, as a matter of fact and degree, to the erection of a canopy extension as alleged.
27. The appellant's second ground (b) question is whether the decking is 'raised' as the notice suggests. The decking forms the floor of the extension; it is level with the 'ground floor' of the appeal flat but that, as noted above, is higher than the back garden at the property. The difference in height is such that there are seven 'associated steps' from the decking down to a patio which is in turn stepped above the lawn.
28. If the word 'raised' was erroneous, it would cause no injustice to the appellant or the Council for me to correct the notice by simply deleting that word. However, as a matter of ordinary language, the decking **is** 'raised' in relation to the ground that it projects over. I would also observe that labelling the appeal decking or patio as 'raised' helpfully allows the reader to distinguish it from the decking or patio within the back garden.
29. The word 'raised' has a particular connotation which is relevant to ground (c). At this stage, however, I find on the balance of probabilities that the erection of a canopy extension incorporating raised decking and associated steps did occur. Appeal A fails on ground (b).

APPEAL A ON GROUND (C)

30. Ground (c) is that the matters alleged by the notice do not constitute a breach of planning control. This ground is normally pleaded where the appellant seeks to demonstrate that planning permission is not required or is already granted for what is alleged.
31. The appellant addressed grounds (b), (c) and (d) together, and made no real submissions to the effect that the canopy extension is not in breach of planning control. She accepts the Council's contention that the extension is not 'permitted development'. However, she also says that the Government's Technical Guidance on permitted development rights for householders is a 'material consideration'. I will address whether that is so.
32. 'Permitted development' (PD) is shorthand for development that is granted planning permission under Article 3(1) and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). The enlargement of a dwellinghouse is permitted under Part 1, Class A of Schedule 2 but subject to limitations and conditions. Under paragraph A.1(k)(i), such development is not permitted if it would consist of or include the construction or provision of a veranda, balcony or 'raised platform'.
33. The Technical Guidance states a platform is 'raised' if it has a 'height' greater than 0.3m. It also says – as does the GPDO itself – that any reference to the height of a building is to be construed as a reference to its height when

measured from 'ground level'². Where the level of the surface of the ground is not uniform, 'ground level' means the level of the highest part of the surface of the ground adjacent or next to the building.

34. In other words, to decide whether the decking is a 'raised platform', I need to decide whether it has a height greater than 0.3m above the highest part of the surface of the adjacent sloping ground. The appellant suggests that the decking is not more than 0.3m above the level of the highest part of surface of the ground adjacent to 21/21A Grange Avenue. However, she has not explained where she took the 'highest part' to be – other than presumably somewhere at the front of her dwelling – or how she measured the relative height of the decking at the back.
35. Under Article 2(1) of the GPDO, for the purposes of Part 1, Class A, the term 'building' can mean 'part of a building'. If only for practical reasons, I find that the height of the decking should be measured in relation to the level of the highest part of the surface of the ground next to the part of the building that comprises the canopy extension.
36. The appellant has not disputed the Council's claim that the decking is 'at a height of 1.45m from [back] garden level'. Even if the Council did not take that measurement exactly from the level of the highest part of the surface of the adjacent ground, the appellant has not shown that the canopy extension does not include a 'raised platform'. On the balance of probabilities, the extension could not be PD due to conflict with paragraph A.1(k)(i).
37. I must add for completeness that the canopy extension could not be PD anyway; under Article 2(1) of the GPDO, the term 'dwellinghouse' does not include a building containing one or more flats or a flat contained within such a building for the purposes of Part 1 of Schedule 2. Since the appeal property is a flat, it does not benefit from any of the PD rights set out under Part 1 – and the Technical Guidance is henceforth immaterial to these appeals.
38. I conclude that, on the balance of probabilities, the appellant has not shown that the decking is not 'raised', or the erection of the canopy extension does not require or already has planning permission. Appeal A fails on ground (c).

APPEAL A ON GROUND (D)

39. Ground (d) is that no enforcement action could be taken at the date when the notice was issued. Under s171B(1) of the TCPA90, no enforcement action may be taken in respect of building operations after the end of the period of four years beginning with the date on which the operations were substantially completed. For Appeal A to succeed on ground (d), the appellant would need to show that the canopy extension was substantially completed four or more years before the notice was issued.
40. The pre-existing terrace was shown on a floorplan and photographs included in marketing particulars provided when the appellant purchased the appeal flat in December 2018. What is probably the pre-existing balustrade can also be seen in marketing photographs of 21A Grange Avenue when that flat 'last sold in February 2015'. Those images are not very clear, and the screengrab includes text which confusingly says: 'previously listed on Rightmove on [sic]

² Article 2(2) of the GPDO.

June 2016'. Even so, for the sake of argument, I accept that the terrace was substantially completed more than four years before the notice was issued.

41. However, I have found that the terrace was removed and, notwithstanding the retention of pillar posts, the erection of a canopy extension incorporating raised decking and associated steps probably occurred. The question for this ground (d) appeal is whether it was too late for the Council to enforce against the alleged works.
42. The appellant has submitted a photograph of her son on the pre-existing terrace steps after they moved to the appeal flat in December 2018. On the balance of probabilities, the canopy extension was substantially completed less than four years before the notice was issued on 3 August 2020. Appeal A fails on ground (d).

APPEAL A ON GROUND (A), THE DEEMED PLANNING APPLICATION AND APPEAL B

Main Issues

43. I consider that the main issues are the effect of the canopy extension on the character and appearance of the site and surrounding area, on the living conditions of neighbouring occupiers and on the living conditions of the occupiers of the appeal flat itself.

Planning Policy

44. I shall have regard to the development plan which comprises Barnet's Local Plan (Core Strategy) Development Plan Document 2012, henceforth referred to as 'the Core Strategy'; Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 – or 'the DMP'; and the London Plan March 2021 – or 'the London Plan'³.
45. I shall also have regard to the Council's Supplementary Planning Document: Residential Design Guidance (the RDG) and the National Planning Policy Framework (the Framework).

Reasons

Character and Appearance

46. The canopy extension is approximately 2.8m deep and 3.7m wide, and those dimensions are conventional if not modest for a single storey addition to a residential building such as this. The most striking feature of the extension is its height; the canopy is about 3.65m high to the eaves or 4m high to the ridge when measured from the garden below. However, it is not unusual to see similarly tall domestic extensions or outbuildings even on flat land.
47. In this case, the height and design of the extension are obviously functions of the topography of the site. Nos. 21/21A and nearby properties are distinctive because they are set down from the road at the front, their back gardens slope away again, and there are steps to those gardens from 'ground floor'

³ The enforcement notice, and the Council's reasons for refusing the planning application both referred to policies contained in the London Plan 2016. It is superseded by the London Plan 2021. The parties have referred me to the current policies they consider relevant.

French doors as well from land between the semi-detached houses. I consider the extension appropriately sited and proportionate in size to link the appeal flat and its lower-level garden.

48. The roof to the extension is not insubstantial, but it has a simple lean-to form which serves to reduce its visual prominence and respects the sloping roof of the whole building. The upper part of the extension – the part which stands above adjacent garden fences – has a relatively unobtrusive appearance because, as shown on the plans, it is enclosed only by the roof, the half-height railings on its rear and eastern sides, and the polycarbonate and wooden panels beside no. 23. The steps and storage unit solidify the lower part of the development, but they are no more dominant than the steps and outbuildings in nearby gardens.
49. None of the materials used in the extension match those of no. 21/21A but it is mostly built from timber, a natural and traditional building material widely seen in nearby garden fences and buildings. I also consider, from their size, positioning and translucent appearance, that the side and roof polycarbonate panels do not relate unacceptably poorly to the appeal or nearby dwellings.
50. My only concern about the appearance of the canopy is that flimsy and unsightly plastic sheeting has been attached to the roof and draped down over the balustrade. However, this feature is not shown on the plans subject to Appeal B and I can impose a condition on any permission granted to require that it be removed. If the appellant wishes to further enclose any part of the extension, she could without prejudice make another planning application.
51. I agree with the Council that there are no similar extensions nearby. The balcony at 23 Grange Avenue does not include a canopy and I do not know if it is lawful anyway. Extensions at nos. 1-7 are also visually different and not a guide as to what is acceptable on the appeal site, not least because those properties are terraced and on land that looks less steep. However, the canopy extension is not unacceptable for being the only one of its kind.
52. Subject to the removal of the sheeting and given the topography of the site and the size and design of the canopy extension, I conclude that it does not appear unacceptably obtrusive or incongruous or cause any unacceptable harm to the character and appearance of the site or surrounding area.
53. The canopy extension does not conflict with Core Strategy Policy CS5, DMP Policy DM01 or London Plan D3, which expect development to respect local context and distinctive local character, and respect the appearance, scale, mass, height, layout and proportions of surrounding buildings and spaces. It does not conflict with the RDG, which expands on those requirements and expects use of durable materials that respond to local character. It does not conflict with the Framework, which requires that development be sympathetic to local character and maintains a strong sense of place.

Living Conditions: Neighbouring Occupiers

54. 23 Grange Avenue is the 'ground floor' flat in what was the semi-pair to nos. 21/21A. It is also elevated above the garden land to the rear, so much so that even the boundary fence between nos. 21 and 23 scarcely comes up to the latter's 'ground floor' windows.

55. The canopy extension adjoins no. 23 and is at a slightly lower level in relation to that dwelling compared to the appeal flat. It will be inescapably within view from the 'ground floor' windows and balcony next door. However, what would primarily be seen from no. 23 is the profile or eaves of the roof plus the polycarbonate and wood side elevation. The upper part of the extension is no more than 2.55m high from the decking to the ridge and less than 3m deep. The lower part of the extension would be screened by the fence.
56. The appellant consulted who I believe to be the occupiers of no. 23, and their response was that, while they would prefer something smaller, they do not object to what is completed. Given its size and appearance, I consider that the extension will not look unduly dominant or create an unacceptable sense of enclosure from within the adjoining dwelling. For the avoidance of doubt, the extension is to the east of no. 23 and will not unacceptably overshadow the adjacent windows. The opaque polycarbonate side panel will prevent unacceptable mutual overlooking and a condition can ensure its retention.
57. The extension stands beneath the flats at 21A and 23A Grange Avenue and will not cause any unacceptable loss of outlook from or privacy within habitable rooms in those dwellings. It will be conspicuous from the back gardens at 21A, 23 and 23A Grange Avenue, but their occupiers will be accustomed to using their amenity spaces on the basis that nearby dwellings appear relatively tall and facing 'ground' and 'first floor' windows afford relatively high and wide views.
58. Given its context, size and partly open design, I consider that the extension will not appear unacceptably overbearing or intrusive from adjacent gardens at 21A, 23 and 23A Grange Avenue. And, even without the plastic sheeting over the rear elevation, it will not cause those spaces to be overlooked to an unacceptably greater extent than if there was no extension to this flat at all.
59. Dwellings on Avondale Avenue which back onto the appeal site are at an even lower level, but the extension is well-separated from those properties due to the length of the gardens in this area. Overall, I am satisfied that the development will cause no loss of outlook or privacy that would result in unacceptable harm to the living conditions to any neighbouring occupier.
60. Thus, the extension does not conflict with DMP Policy DM01, London Plan Policy D3 or the RDG, which require that development delivers or is designed to allow for adequate privacy and outlook. It does not conflict with the Framework, which expects development to promote a high standard of amenity for existing and future users.

Living Conditions: Occupiers of the Appeal Flat

61. The appellant has explained that she replaced the pre-existing terrace because it was not safe, but her young son still needed an outdoor space that he could access independently. The extension was also designed to be used by the appellant's wheelchair-bound father when he visits, as he often does; he cannot spend time in the garden since that is only reachable by steps.
62. The canopy extension is accessible for wheelchair users and indeed exceeds the minimum size for balconies as set out in the RDG. With regard to any need for extra social space in this age of homeworking, the extension would in my view enhance living conditions in the appeal flat for future occupiers as

well as the appellant. It complies with London Plan Policy D3 and Core Strategy Policy CS5, which expect development to achieve indoor and outdoor environments that are comfortable and inviting for people to use, and to be safe, attractive and fully accessible.

63. However, given my findings on the other main issues, it is unnecessary for me to consider whether the personal or public benefits associated with the development would, on their own, justify a grant of permission.

Other Matters

64. It follows from my reasoning on grounds (c) and (d) that the appellant has no 'fallback position' of reinstating the pre-existing terrace. It is demolished and any replacement would require express planning permission.
65. I am not aware of the circumstances in which the balcony at no. 23 was constructed or why the Council has not enforced against it. It does not set a precedent for the canopy extension. Looking at other appeal decisions submitted by the appellant, the 'Chiswick' extension was not on such sloping land as this⁴. The Stanmore canopy was made of glass and attached to a detached house⁵. I can also distinguish the site and/or development before me from those subject to the New Kings Road, Orpington, Enfield, Woodford Green, Uxbridge, Romford and Edgware appeals⁶.
66. I have adjudged the canopy extension on its merits and with regard to relevant planning policy. On that subject, I agree with the appellant that DMP Policy DM06 and London Plan Policy D1 are not relevant to these appeals since the former concerns heritage assets and the latter relates to Council area assessments and growth requirements. The design advice set out in Core Strategy Policy CS1 is aimed at 'development proposals of landmark quality' and 'areas of housing and economic growth' rather than domestic extensions.
67. The appellant has not provided copies of DMP Policies DM02 and DM03. The Supplementary Planning Document: Sustainable Design and Construction adds little relevant guidance beyond that already considered in the RDG.

Conclusion on Planning Merits and Human Rights

68. I have found that, subject to a condition to require the removal of the plastic sheeting, the canopy extension causes no unacceptable harm to the character and appearance of the site or surrounding area, or to the living conditions of neighbouring occupiers. The development complies with Core Strategy Policy CS5, DMP Policy DM01, London Plan Policy D3, the RDG and the Framework, and that would be enough for me to allow these appeals even if the extension did not also provide the occupiers of no. 21 with accessible amenity space.
69. Representations were made to the effect that the appellant's human rights under Article 8 of the European Convention on Human Rights, as incorporated into domestic law through the Human Rights Act 1998 would be violated if Appeals A or B are dismissed. Since I have decided to grant planning

⁴ Appeal refs: APP/F5540/C/18/3200984 and APP/F5540/W/18/3200981

⁵ Appeal ref: APP/M5450/D/19/3232708

⁶ Appeal refs: APP/H5390/W/19/3226194; APP/G5180/D/19/3223729; APP/G5180/D/19/3223729; APP/Q5300/D/18/3219348; APP/W5780/D/18/3212545; APP/W5780/D/18/3212545; APP/R5510/D/18/3215786; APP/B5480/W/18/3212342 and APP/B5480/W/16/3166190; and APP/B5480/W/18/3212342 and APP/B5480/W/16/3166190.

permission for the canopy extension, there will be no interference with the appellant's right to a private and family life, home and correspondence.

Planning Conditions

70. Since the canopy extension is permissible as built and proposed, conditions requiring that it be begun within three years or constructed in materials to match the existing building would be unnecessary and unreasonable.
71. I agree with the Council that, in the interests of certainty, a condition should be imposed on the permission granted pursuant to Appeal B to specify the approved plans. However, the plans were not attached to the enforcement notice and cannot be tied to the deemed planning permission granted in respect of Appeal A.
72. The plastic sheeting attached to the extension is not mentioned in the notice or shown on the submitted plans. As set out above, however, I shall impose a condition on both permissions granted to require that the sheeting be removed – and that the polycarbonate panel facing 23 Grange Avenue is retained. These conditions are necessary to protect the character and appearance of the site and surrounding area, and the living conditions of neighbouring occupiers.

OVERALL CONCLUSION

73. For the reasons given above, and with regard to all other matters raised, I conclude that Appeal A should succeed on ground (a). I shall correct and quash the notice and grant planning permission for the development as alleged. Appeal A does not fall to be considered on ground (f).
74. I also conclude that Appeal B should be allowed, and planning permission should be granted for the development proposed.

FORMAL DECISIONS

Appeal A: APP/N5090/C/20/3258574

75. It is directed that the enforcement notice be corrected by the deletion of the plan attached to the enforcement notice. Subject to that correction, Appeal A is allowed, and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the Town and Country Planning Act 1990 for the development already carried out, namely the erection of a canopy extension incorporating raised decking and associated steps at the land at 21 Grange Avenue, Barnet, EN4 8NJ, subject to the following conditions:
 - 1) Transparent sheeting attached to the canopy extension hereby approved shall be removed within three months of the date of this decision.
 - 2) The polycarbonate screening adjacent to 23 Grange Avenue shall be retained.

Appeal B: APP/N5090/W/20/3256819

76. Appeal B is allowed, and planning permission is granted for a rear raised level patio with canopy at 21 Grange Avenue, East Barnet, Barnet, EN4 8NJ in

accordance with the terms of the application (ref: 20/2259/RCU) dated 20 May 2020 and the plans submitted with it, subject to the following conditions:

- 1) The development hereby permitted shall not be carried out other than in accordance with the following approved plans: 202020.P.001, 202020.P.1001, 202020.P.1002, 202020.P.1003, 202020.P.1301, 202020.P.1302 and 202020.P.1303.
- 2) Transparent sheeting attached to the canopy extension hereby approved shall be removed within three months of the date of this decision.
- 3) The polycarbonate screening adjacent to 23 Grange Avenue, as shown on plan 202020.P.1303, shall be retained.

Jean Russell

INSPECTOR