



Appeal Decisions

Site visit made on 18 March 2025

by **R Hitchcock BSc DipCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02nd April 2025

Appeal A Ref: APP/N5090/C/23/3333385

Appeal B Ref: APP/N5090/D/23/3331923

Appeal C Ref: APP/N5090/D/24/3336558

3 Kingsmead, BARNET, EN5 5AX

- **Appeal A** is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Mark Juggurnauth-Thomas against an enforcement notice issued by the Council of the London Borough of Barnet.
- The notice was issued on 10 November 2023.
- The breach of planning control as alleged in the notice is Without planning permission, the construction of a single storey rear extension with a corresponding rear dormer roof extension.
- The requirements of the notice are to: 1. Demolish the single storey rear extension and the rear dormer roof extension. 2 Restore the property back to the state it was in prior to the works taking place, with materials and roof tiles to match the pre-existing dwellinghouse as shown in drawing no. EGA001 and EGA002 (submitted under application ref. 23/2991/RCU). 3 Permanently remove all constituent materials resulting from the works in 1 and 2 above from the property.
- The period for compliance with the requirements is: 4 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 (as amended). 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 Act.
- **Appeal B** is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs M & D Juggurnauth-Thomas against the decision of the Council of the London Borough of Barnet.
- The application Ref is 23/2991/RCU.
- The development proposed is a single storey rear extension and rear dormer.
- **Appeal C** is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs M & D Juggurnauth-Thomas against the decision of the Council of the London Borough of Barnet.
- The application Ref is 23/4499/HSE.
- The development proposed is a single storey rear extension and rear dormer.

Decisions

APPEAL A

1. It is directed that the enforcement notice is corrected by the deletion of the word 'property' in step 2 of section 5 and its substitution with the word 'dwelling'.
2. Subject to the correction, Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the construction of a single storey rear extension with a corresponding rear dormer roof extension at 3 Kingsmead, Barnet, EN5 5AX, as shown on the plan attached to the notice subject to the conditions in attached Schedule 1.

APPEAL B

3. The appeal is allowed and planning permission is granted for a single storey rear extension, roof extension including rear dormer window with Juliette balcony and changes to fenestration to the side elevation at 3 Kingsmead, BARNET, EN5 5AX in accordance with the terms of the application, Ref 23/2991/RCU, subject to the conditions in attached Schedule 2.

APPEAL C

4. The appeal is allowed and planning permission is granted for a single storey rear extension, roof extension including rear dormer window and changes to fenestration to side elevation at 3 Kingsmead, BARNET, EN5 5AX in accordance with the terms of the application, Ref 23/4499/HSE, subject to the conditions in attached Schedule 3.

Preliminary Matters

5. As set out above there are three appeals pertaining to the same site. The appeals all relate to single-storey rear extensions with a part flat roof/part pitched roof spanning the ground floor rear elevation of the dwelling. In addition, Appeals A and B relate to a flat-roofed rear roof addition extending from the main roof across almost the full depth of the ground floor extension (as built). Appeal C includes a roof extension projecting only to the line of the original rear wall of the dwelling. As the main issue in the appeals are the same, I have dealt with them concurrently except where highlighted.
6. In Appeal B, it was evident from my site visit that some minor deviations were apparent between the development as built and the submitted plans. For the avoidance of doubt, that appeal is determined based on the plans submitted with the planning application.
7. The descriptions in appeals B and C in the banner heading above are taken from the application forms. However, I have concluded on the descriptions of development taken from the Council's decision notices as these provide a more accurate description of the existing/proposed development. It does not change the development for which planning permission was sought. The appellant uses the same description on their appeal forms. Consequently, I am satisfied that no party will be prejudiced by my use of them.
8. Since the appeals were registered, the Barnet Local Plan 2021-2036 was adopted by the Council on 4 March 2025. The policies contained within it supersede those referenced in the Decision Notices and Enforcement Notice issued by the Council. In addition to Policy CDH05: Extensions, the Council has directed me to Policy CDH01: Promoting High Quality Design as the most relevant policies. I have had regard to these, and any comments submitted in reaching my decisions.

The Notice

9. Under s176(1)(a) of the Town and Country Planning Act 1990 as amended (the Act), I may correct any defect, error or misdescription in the enforcement notice, or vary the terms of the enforcement notice. I can only do so, however, where I am satisfied that this will not cause injustice to either the appellants or the Council.

10. The Notice defines the 'Property' as the entirety of the land at 3 Kingsmead. Step 2 of section 5 requires that the property reverts back to its state prior to the works taking place. Although this requirement is somewhat qualified by reference to materials to match the pre-existing dwellinghouse, as other development not referred to in the Notice may have occurred in the interim, that requirement should apply only to the 'dwelling'. As the main parties have made their cases out on that basis, no injustice would arise if I were to correct the Notice for clarity.

The Ground (a) Appeal and the Deemed Application for Planning Permission, and the Appeals Against Refusal of the Planning Applications

Main Issue

11. The main issue in the appeals is the effect of the development on the character and appearance of the building and its locality.

Reasons

12. No 3 Kingsmead is a semi-detached dwelling with living accommodation on two floors, including rooms in the roof space. The pair of dormer bungalows are set above basement level garages. The building features projecting front gables with small flat-roofed front dormers set in a partially hipped roof. To the rear are apex-roof dormers. The building is finished in part white render, facing brick and a grey roof tile.
13. The residential area consists predominantly of detached and semi-detached bungalows set behind front gardens with private amenity spaces to the rear. The area is a mix of individually designed and grouped properties of like design set either side of tree-lined streets on sloping ground.
14. There is no dispute between the main parties that the single storey element of the rear extension causes little harm. Indeed, the Council granted planning permission for a similar extension (ref. 22/0568/HSE) and I see no reason to disagree with that decision. It projects a similar distance from the rear elevation as the neighbouring extension and is less than the maximum depth advocated in the Council's Residential Design Guidance [October 2016] (the RDG) for semi-detached dwellings.
15. Furthermore, even when combined with the existing roof extension, the extent of the additional accommodation created does not appear unduly substantial or disproportionate to the size of the original building. As additions to the building, they retain a subordinate scale.
16. However, in Appeals A and B, as an addition to the combined roof slopes of the original dwelling and ground floor extension, the block form, depth, width and long rearward projection of the roof extension creates a relatively high degree of massing behind the main roof. This conflicts with advice on the scale and proportion of dormer extensions found in the RDG.
17. Moreover, the form of the constructed extension and proposed reduced scheme under Appeal C have little reference to either the existing apex rear dormer, the front projecting gable, or the modest scale of the front dormer. Accordingly, the design results in the introduction of a discordant feature that undermines the character of the dwelling.

18. That effect is/would be somewhat offset by the use of matching hanging tiles to the cheeks and face, and the dark framing of the apertures of the dormer. This assists in visually assimilating the roof extension. Taken with the limitation to views of the development, which are substantially restricted due to its position to the rear of the dwelling and the roadside boundary fencing, trees and vegetation of 1 Kingsmead when viewed from King Edward Road, the visual harm is limited. This would be more limited in the Appeal C scheme.
19. In support of the designs, the appellant states that it would be an improvement over a roof extension which was granted a Certificate of Lawfulness in September 2021. However, development carried out under the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) is not necessarily subject to the same design controls. That is not a reason to set aside development plan policies which seek to secure high standards of design.
20. In the immediate locality, there is significant variation in the character of buildings. Although many are similar in their original form, there is a wide variety of extensions that have been added to both building elevations and roofs. This includes large-scale dormers to side and rear roof slopes, changes to roof pitches (sometimes with resultant multiple contrary pitches in a single aspect), flat roofed and wrap-around extensions.
21. Although the ground floor extension reinstates a degree of lost symmetry to the rear of the semis, the roof extension causes an imbalance across the pair. However, the integrity of the more important frontage elevations of the semi-pair presenting to the streetscene is preserved. As an extension amongst various other rear additions along the row, the development does not have the prominence of many extensions visible in the immediate street scenes. In the context of local development, I find it has a negligible effect on the wider character of the locality.
22. Notwithstanding the finding on the local context and character of the locality, it does not outweigh the harm arising from the contrasting design of the existing and proposed first floor development in response to the host building. Although the effect is limited on account of its relatively inconspicuous position, the existing roof extension and alternative scheme, conflict with policies CDH01 and CDH05 of the Barnet Local Plan 2021-2036 [March 2025] (the BLP) as they seek to achieve the high quality design of extensions that complement the design of the existing building in terms of style and form, and incorporate a roof profile sympathetic to the existing property.

Other Matters

23. In support of the development, the appellant highlights that if the requirements of the Notice were implemented, a similar 2-phase development consisting of a single storey extension and then a roof extension could be constructed under the terms of the GPDO.
24. This is disputed by the Council on the basis that the roof extension would fail to meet Condition B.2.(b)(i)(bb) of Class B of Schedule 2. However, the wording of that Condition clarifies the limitation does not apply in cases where the roof enlargement joins the original roof to the roof of a rear extension.

25. Furthermore, as a potential 2-phase approach (with the second phase adding to the roofs of the original building and a single storey rear extension), the limitation described in Paragraph A.1.(i) of Class A – a reason for rejecting a fallback position to the Appeal B application, would not be engaged. No other limitation to a similar development is highlighted by the Council to suggest such a 2-phase development comparable to the constructed scheme could not be completed under the terms of the GPDO.
26. It is notable that the recent planning history of the site includes the planning permission for the single storey rear extension and a Certificate of Lawfulness for a large rear dormer extension (ref. 21/5124/192), albeit an extension limited to the original roof slope. On that basis alone, I find that an alternative 2-phase development under the terms of the GPDO is more than a merely theoretical prospect in this instance. Furthermore, as highlighted by the appellant, and through the design of the development granted a Certificate of Lawfulness, it could be less desirable than the existing development.
27. A realistic fallback position exists. If the requirement to remove the existing development was upheld, the alternative of an extension constructed under the terms of the GPDO would, in my view, be a credible and realistic outcome. It would be consistent with the attempts and engagement by the appellants to achieve additional living space.
28. I acknowledge the appellants' contention that advice from the Council prior to the works failed to explain that, when undertaken as a single operation, the development exceeded allowances set out under the GPDO. However, this is not a matter for the appeals.
29. I have had regard to the claim that the development looms over an adjacent garden area. The higher roof extension is offset from the common boundaries with neighbouring plots. It projects a limited distance past the rear elevation of the neighbouring property at 5 Kingsmead.
30. The intervening boundary consists of a high fence set above a retaining wall backed by established boundary vegetation. While I have little doubt that filtered views from the neighbouring garden to the roof extension will exist, the intervening distance and boundary treatment ensures that acceptable outlook and adequate spacing between surrounding buildings exists and that it does not overbear on users of the neighbouring amenity space.

Planning Balance and Conclusions

31. I have found that the development as built, and the proposed alternative scheme, result in an unsympathetic design of extension due to the form and scale of the roof dormer. However, given the restricted views to the development, the associated harm is limited.
32. Notwithstanding, it is a well-established principle that the provisions of the GPDO may provide a legitimate fallback position. I have found that in the circumstances of the case there is a real prospect of a development under the GPDO taking place and that it would likely lead to a similar outcome. I therefore find that a strong justification in the context of Paragraph 38(6) of the Planning and Compulsory Purchase Act 2004 exists, and it provides clear justification for departing from the development plan in this instance.

33. For those reasons, the appeal on ground (a) thereby succeeds, as do the appeals against the refusal of planning permission.

Conditions

34. I have considered the suggested conditions from the Council and had regard to Paragraph 57 of the Framework and the National Planning Practice Guidance in terms of the use of planning conditions. In addition to the standard condition limiting the lifespan of the planning permission in Appeal C, I have imposed conditions specifying the relevant drawings as this provides certainty for Appeals B and C.
35. A condition restricting additional side windows and doors is unnecessary due to existing boundary treatments and the Conditions set out in Para. A.3. of Class A of the GPDO. Restriction to the use of the extension roof is unnecessary in the case circumstances.
36. Use of obscure glazing to side windows serving the development are reasonable in the interests of preventing undue overlooking of neighbouring garden areas.

Conclusions

37. For the reasons given above, I conclude that Appeal A succeeds on ground (a). I shall grant planning permission for the development as described in the notice as corrected. The enforcement notice will be corrected and quashed. In these circumstances the appeals on grounds (f) and (g) do not fall to be considered.
38. For the reasons given above, Appeals B and C should also be allowed.

R Hitchcock

INSPECTOR

Schedule 1: Schedule of Conditions to the deemed Planning Permission granted on Ground (a) on appeal Ref. APP/N5090/C/23/3333385

- 1) Within 2 months of the date of this permission, details of the glazing and restriction/s to opening of the first-floor side-facing windows serving the development shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall thereafter be implemented in accordance with the approved details within 3 months of the local planning authority's approval and shall thereafter be retained for the duration of the development hereby approved.

END.

Schedule 2: Conditions to planning permission Ref 23/2991/RCU

- 1) The development hereby permitted shall be carried out in accordance with drawing nos.: Location Plan: 3 Kingsmead, Barnet, EN5 5AX; 23026/PGA001 and 23026/PGA002.
- 2) The external materials of the extension hereby permitted shall match those used in the existing building.
- 3) The first-floor side-facing windows serving the room annotated as 'Robes' on the approved plans shall be permanently glazed with obscure glass only and fixed shut with only a fanlight opening.

END.

Schedule 3: Conditions to planning permission Ref 23/4499/HSE

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos.: Site Location Plan; 23026/PGA001 and 23026/PGA002.
- 3) The external materials of the extension hereby permitted shall match those used in the existing building/dwelling.
- 4) The first-floor side-facing windows serving the new accommodation created by the dormer extension shall be permanently glazed with obscure glass only and fixed shut with only a fanlight opening.

END.