



Appeal Decisions

Site visit made on 25 March 2025

by **M. P. Howell BA (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 APRIL 2025

Appeal A Ref: APP/N5090/C/23/3321979

18 Greenway Gardens, London NW9 5AX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Pool Hai Lai against an enforcement notice issued by the Council of the London Borough of Barnet.
- The notice was issued on 12 April 2023.
- The breach of planning control as alleged in the notice is the construction of an outbuilding in the rear garden.
- The requirements of the notice are to:
 - 1 Demolish the outbuilding
 - 2 Permanently remove all constituent materials resulting from the works in 1. above from the property
- The period for compliance with the requirements is: three (3) months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) 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.

Summary Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B Ref: APP/N5090/W/23/3321750

18 Greenway Gardens, Colindale, Barnet, London NW9 5AX

- The appeal 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 Pool Hai Lai against the decision of the Council of the London Borough of Barnet.
- The application Ref is 22/3357/HSE.
- The development proposed is the erection of rear outbuilding following demolition of existing garage. New paving to rear garden.

Summary Decision: Appeal B is allowed.

Preliminary Matters

1. During the appeal, the revised National Planning Policy Framework December 2024 (the Framework) was published. There are no substantive changes relevant to the appeal before me, and therefore the parties would not be prejudiced by my consideration of the 2024 version of the Framework.
2. Since the appeal was made, The Barnet Local Plan 2021-2036 was adopted by the Council in March 2025 (Local Plan). This replaces the previous Local Plan, such that the policies cited on the Enforcement Notice (Notice) and Decision Notice are no longer part of the development plan and have no weight. The main parties were given time to provide observations on the changes, and I have considered the relevant replacement policies set out within the recently adopted Barnet Local Plan.

3. I acknowledge the Council indicates in the Officer Delegated Report and the Statement of Case that it is evident that a self-contained unit has been created by the erection of the outbuilding.
4. However, Section 177(1)(a) of the Town and Country Planning Act 1990 (1990 Act) only allows the grant of planning permission in respect of matters stated in the Notice as constituting a breach of planning control. The ground (a) appeal is, therefore, derived from the allegation set out on the Notice, which alleges an outbuilding and not a self-contained unit. Furthermore, section 75(2) of the 1990 Act also states that where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used. In the submissions, the appellant has set out that the use would be as an annexe for an elderly relative. I have, therefore, determined the appeals on this basis.
5. I have taken the description of development from the Council's Decision Notice as it provides a more accurate description of the development than that outlined on the original planning application form. This is reflected in the banner heading above, and I am satisfied that the description does not alter the nature of the development and there would be no prejudice to either party.
6. Aside from Appeal B proposing paving to the rear, the developments and main issues in the appeals are the same. As such, to avoid duplication, I have considered them together.

Appeal A: the Ground (a) Appeal and the Deemed Planning Application, and Appeal B

7. The **main issues** in these appeals are:
 - The impact of the development on the character and appearance of the area.
 - The impact of the development on the living conditions of the neighbouring occupants of 16 and 20 Greenway Gardens, with regard to noise and disturbance.

Reasons

Character and Appearance

8. Greenway Gardens is a residential street predominately made up of semi-detached two-storey dwellings with square bay windows and hipped roofs with spacing in between. The properties, for the most part, sit within good-sized plots and face the road with a consistent building line, set back behind gardens and driveways. Single storey detached garages and outbuildings with flat roofs are a typical feature to the rear but are not visible or prominent in the street. The consistency in the scale, design and appearance of the dwellings to the front as well as the spaces in between result in a pleasant character and appearance to the area.
9. 18 Greenway Gardens is a semi-detached two-storey property with a hipped roof and a single storey rear extension. The rear garden is long and includes a single storey detached shed and the outbuilding subject of this appeal. The adjoining semi-detached dwellings have both been extended with single storey rear

extensions as well as hip-to-gable roof alterations and rear dormers¹. 16 Greenway Gardens also includes a flat roof outbuilding to the rear of the garden space. Despite the extensions and alterations, the scale and appearance of the dwellings as well as the spaces in between the properties have largely been maintained and contribute positively to the character and appearance of the area.

10. The development is a detached single storey outbuilding. It is located a few metres back from the rear of the main property and is orientated at 90 degrees. It is finished in white render and white UPVC windows and includes a toilet and shower room, an open kitchen and living space and a double bedroom. The outbuilding has an electricity supply, and the kitchen includes a cooker, extractor fan, hob, fridge and freezer. The outbuilding can be accessed via the garden from the rear of the main property or the pathway and gate to the side.
11. The Residential Design Guidance Supplementary Planning Document 2016 (Design SPD) stipulates that proposals to build an annexe will be considered on the individual merits of the scheme. It states an annexe should be internally connected to the rest of the house and should not include a separate kitchen. It also states that annexes must remain ancillary to the main house, and this should be conditioned. With this in mind, I appreciate that the annexe is detached, and the occupier would have their own bedroom and bathroom as well as an open but small kitchen and living space. To that extent the annexe is not internally connected, it includes a kitchen, and the elderly relative would have some independence.
12. However, it has been held in law that there is no reason why self-contained accommodation being used by a dependent relative should automatically become a separate planning unit. It is a matter of fact and degree, depending on the use and the circumstances of the case. In my judgement, the accommodation is not excessive in size and despite not being internally connected, it has a close physical relationship with the main dwelling. I have also not been provided with any substantive evidence to indicate that the annexe has been used independently at any time. However, to provide further control over its use, an appropriately worded condition can be attached to restrict the occupancy.
13. Furthermore, the outbuilding has a scale and single-storey height that makes it subservient to the larger host dwelling with sufficient garden space remaining to serve the occupants. It has a scale, height and appearance that is typical of many outbuildings found in residential areas, which is compounded by the fact that there is an outbuilding of a similar scale and height in the adjoining neighbour's garden. The outbuilding is also not visible from the road, and it has no impact on the character or appearance of the property or the street scene in Greenway Gardens.
14. Accordingly, the development is acceptable with respect to its impact on the character and appearance of the area. Despite there being a technical conflict with advice set out in the Design SPD, I find that no harm would arise from it and there would be no conflict with Policy CDH01 of the Local Plan and Policy D3 of the London Plan 2021. These policies, amongst other things, require development to be of a high standard of design that is sympathetic to and contributes positively to the character and appearance of the site and wider area.

¹ 16 and 20 Greenway Gardens

Neighbours living conditions

15. Due to its siting close to the property and its use as an annexe for an elderly relative, the development would not give rise to any marked or significant increase in comings and goings to and from the premises. As such, in my judgement, the use of the outbuilding as an annexe would not result in adverse noise impacts on the adjoining neighbour's living conditions.
16. Accordingly, the development has no adverse impacts on the living conditions of the neighbouring occupants of 16 and 20 Greenway Gardens, with regard to noise and disturbance. The development is compliant with Policy CDH01 of the Local Plan and D3 of the London Plan 2021 as well as the Design SPD. These policies, and guidance, amongst other things, seek to ensure that all development provides a good standard of amenity and mitigates against any adverse noise impacts on adjoining occupants.

Conditions

17. The Council has suggested conditions, if I were minded to allow the appeals. I have considered these in the light of advice in the Framework and Planning Practice Guidance (the PPG) and, in the interests of clarity and precision, amended some of the wording.
18. As the development has been carried out on site, it is not necessary to require a condition to implement the consent within the standard time period. There are also no plans attached to Appeal A to refer to in the conditions. Appeal B is a proposed development, and in the interests of precision and clarity it is helpful to define the approved plans for that scheme. However, when the building exists, it is good practice to refer to the plans in the effective part of the decision, rather than a condition that requires the development to be carried out in accordance with them.
19. I have also had regard to the suggested condition requiring the building to be used ancillary to the dwelling. As already indicated, the building does include the necessary residential accommodation to enable it to be used independently, and therefore, a condition restricting its use would be appropriate.

Conclusions

20. 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. Given the decision on the ground (a) appeal, the appeal on ground (g) does not, therefore, fall to be considered.
21. For the reasons given above and taking into account the development plan as a whole and all other relevant material considerations, I conclude that Appeal B should be allowed.

Formal Decisions

Appeal A Ref: APP/N5090/C/23/3321979

22. The appeal 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 an outbuilding in the rear garden at 18 Greenway Gardens, London, NW9 5AX as shown on the plan attached to the Notice and subject to the following condition:

- 1) The outbuilding hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 18 Greenway Gardens, London NW9 5AX.

Appeal B Ref: APP/N5090/W/23/3321750

23. The appeal is allowed, and planning permission is granted for the erection of a rear outbuilding following the demolition of the existing garage as well as new paving to the rear at 18 Greenway Gardens, London NW9 5AX in accordance with the terms of the application, reference 22/3357/HSE, dated 28 June 2022, and the plans numbered 22203-PL-DR-2005; 22203-PL-DR-2004; 22203-PL-DR-2003; 22203-PL-DR-2002; 22203-PL-DR-2001, subject to the following condition:

- 1) The outbuilding hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 18 Greenway Gardens, London NW9 5AX.

M. P. Howell

INSPECTOR