



Appeal Decisions

Site visit made on 30 April 2025

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 9 JUNE 2025

Appeal A Ref: APP/M5450/C/23/3327091

14 Orchard Close, EDGWARE, HA8 7RE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr David Alain Cohen against an enforcement notice issued by the Council of the London Borough of Harrow.
 - The notice was issued on 26 June 2023.
 - The breach of planning control as alleged in the notice is Without planning permission, the unauthorised installation of a wooden tree house structure in the rear garden of the land ("the Unauthorised Development").
 - The requirements of the notice are: 1) Demolish the Unauthorised Development; and 2) Remove from the land all materials and debris arising from compliance with the aforementioned requirement of the notice.
 - The period for compliance with the requirements is: Two (2) calendar months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) 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.
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Appeal B Ref: APP/M5450/W/23/3327086

14 Orchard Close, EDGWARE, HA8 7RE

- 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 Alain Cohen against the decision of the Council of the London Borough of Harrow.
 - The application Ref is P/0231/22.
 - The development proposed is Installation of wooden tree house structure in rear garden.
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Appeal A Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - In paragraph 3 deletion of the word "land" and its substitution with the word "Land";
 - In paragraph 5 after the word "Development" insertion of the word "and"; and
 - In paragraph 6 the deletion of the words "Two (2) calendar months after this notice takes effect" and their substitution with the words "Five (5) months".
2. Subject to the corrections and variation Appeal A is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B Decision

3. The appeal is dismissed.

Appeal A - The Notice

4. I will correct the reference in paragraph 3 of the notice to the operational development occurring on the 'land' so that this references the defined term 'Land' used in paragraph 2. I will also add the word 'and' between the requirements. These corrections are for clarity and would not result in any injustice.

Preliminary Matters

5. As regards Appeal B, I have taken the description of development in my banner heading above from the decision notice as the reference to a 'temporary' structure within the application description does not appear to reflect the development which is the subject of the Appeal B planning application.
6. The revised National Planning Policy Framework 2024 came into force during the course of the appeal. The revisions made have not had a direct bearing on the main issues in this appeal.

Appeal A: The appeal on ground (a) and the deemed planning application (DPA); Appeal B: s78 Appeal

Main Issues

7. The Appeal A DPA and the Appeal B application relate to essentially the same development so I deal with these together, distinguishing between them where necessary. The main issues are (i) the effect on the character and appearance of the rear garden environment, taking into consideration the site's location within the Canons Park Estate Conservation Area (CA); and (ii) the effect on the living conditions of neighbouring occupants at 55, 57 and 59 Canons Drive with particular regard to outlook and privacy.

Reasons

Character and appearance

8. The appeal site is located within the CA which is characterised by high quality historic architecture, attractive landscaping and openness. The Council's Conservation Officer raises no objection to the appeal development as regards its effect on the wider CA but the Council references concern as to the effect as experienced from neighbouring gardens.
9. The treehouse is predominantly constructed of timber and is of a modest size similar to that of a typical garden shed. It is in an elevated position having been erected on stilts and built around established trees within the appellant's garden. It is visible above boundary fencing and No 57's shed when seen in views from Canons Drive rear gardens and rear windows. However, its size, materials and position nestled within existing trees render it an unobtrusive addition which does not result in excessive massing or unduly obstruct views across open greenery.
10. I note that the Appeal development indicates a flat roof in contrast to the pitched roof treehouse seen at my site visit which is the subject of the Appeal A DPA. This difference in roof form does not alter my assessment above since it represents only a very minor difference in design. I note that conifer trees planted between the treehouse and the boundary have died but in my view, the treehouse is not visually intrusive even in the absence of this additional tree screening.

11. There is nothing to suggest that any noise from children playing within the treehouse would be materially different to noise from children playing at this end of the garden. There is thus no harm to the tranquil character of the CA.
12. I conclude then that there is no harmful effect on the character and appearance of the rear garden environment and the character and appearance of the CA is preserved. It complies with Policy D3.D(11) of the London Plan 2021 (London Plan) and Policy CS1.B of the Harrow Core Strategy 2012 (CS) which strive to ensure that new development responds to the existing character of a place and respects heritage assets and responds positively to the local and historic context.
13. In reaching this conclusion, I have undertaken my statutory duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.

Living conditions

14. The treehouse is located very close to the rear boundaries of residential properties at Nos 55, 57 and 59. Due to its elevated position, the treehouse now forms part of the outlook from the rear windows and gardens of these properties. It is though a modest-sized structure of timber construction, which is not out of place within a residential garden where you would expect to see children's play equipment and outbuildings. As such, and bearing in mind the separation distance from rear openings of these properties, the treehouse does not represent a visually intrusive feature in views from rear windows of the affected properties, or from the parts of the garden nearest these houses.
15. When viewed from the ends of the gardens of Nos 55, 57 and 59, the treehouse is a more noticeable presence, especially from the end of No 57's garden given that the treehouse is more or less directly opposite here. Further, the treehouse is seen in the context of No 57's shed and the presence of trees in the appellant's garden softens the visual effect of the treehouse in these views. As regards Nos 55 and 59, the views of the structure are oblique, further reducing the effect on outlook.
16. I note that the Council's adopted Residential Design Guide 2010 (RDG) advises that *'Any structure should normally be located away from the boundaries of the site by at least two metres, in which case its height should not exceed 4 metres for a structure with a dual pitched roof, or 3 metres in any other case. If the outbuilding is within 2 metres of any boundary then a maximum height of 2.5 metres is recommended'*. Whilst the appeal development does not accord with this guidance, this non-compliance has not resulted in any material harm as regards the outlook from neighbouring properties for the reasons explained.
17. Turning to overlooking/privacy, from my site visit, I observed that standing on the part of the treehouse balcony that is closest to No 55, I was able to obtain a clear view of the swimming pool at the end of No 55's garden notwithstanding existing landscaping. Whilst the view is an oblique one, the close proximity to the swimming pool results in a harmful loss of privacy. Standing above the slide, I had a clear line of sight towards the ground floor rear glazing of No 59. Again, this was an oblique view and at a distance. However, the extensive glazing at the ground floor rear of No 59 means that the resultant overlooking is harmfully invasive. While the separation distance exceeds that which the appellant indicates would

typically be recommended by local planning authorities, the site specific circumstances detailed mean that there is a harmful loss of privacy nonetheless.

18. Concerns have been raised by interested parties as to noise and disturbance resulting from the use of the treehouse. Bearing in mind the small footprint of this structure, it would accommodate very few people and so on the available evidence there is nothing to indicate a harmful level of noise and disturbance.
19. I find then on the second main issue that while the appeal development has a neutral effect on the living conditions of neighbouring occupants at Nos 55, 57 and 59 as regards outlook, nonetheless it results in a harmful loss of privacy. It conflicts then with Policy D3.D(7) of the London Plan and Policy DM1 of the Harrow Council Development Management Policies 2013 which seek to ensure satisfactory amenity for neighbouring occupiers including as regards privacy.

Other Matters

20. Interested parties have raised concerns as to precedent but since developments are considered on their own individual merits, there is no substantive basis for this concern. Whether or not a breach of planning control was deliberate and the existence of restrictive covenants do not affect acceptability in planning terms. There is nothing to indicate that either of the appeals was submitted out of time.

Time for compliance

21. While there is no appeal on ground (g) that the time for compliance falls short of what is reasonable, I am permitted¹ to make a correction or variation to the notice provided that this does not result in injustice. I am mindful in this regard that there is potentially scope for modifications to be made to seek to overcome the loss of privacy identified, for example through further screening and repositioning/removing the slide.
22. Extending the period for compliance to five months would afford the appellant some additional time to prepare and submit a revised planning application. This modest extension of time would not result in any injustice, particularly bearing in mind that the appeal property presently appears to be uninhabited due to renovations and as such the treehouse is unlikely to be in use for some time.

Appeal A: ground (a) and the DPA and Appeal B conclusion

23. The appeal development does not result in harm to the rear garden environment or to the character and appearance of the CA and has no harmful impact on outlook for neighbouring residents. It does though result in a material loss of privacy for neighbouring occupants and in this way conflicts with the development plan, read as a whole. No material considerations warrant a decision other than in accordance with the plan and it follows that the appeal should be dismissed.

Appeal A Overall Conclusion

24. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

¹ Pursuant to s176(1) of the Town and Country Planning Act 1990

Appeal B Overall Conclusion

25. For the reasons given above the appeal should be dismissed.

V Bond

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/M5450/C/23/3327091	Mr David Alain Cohen
Appeal B	APP/M5450/W/23/3327086	Mr Alain Cohen