



Appeal Decisions

Site visit made on 2 May 2025

by **Richard S Jones BA (Hons), BTP, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 July 2025

Appeal A Ref: APP/T5150/C/24/3344865

11 Woodfield Avenue, Wembley, HA0 3NP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Llann Investment Ltd against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice was issued on 15 April 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the premises to flats. And without planning permission, the erection of a part single storey part two storey rear extensions, hip to gable roof extension and rear dormer, outbuilding and front porch.
 - The requirements of the notice are to:
 1. Cease the use of the premises as flats.
 2. Demolish the unauthorised part single storey part two storey rear extensions, hip to gable roof extension and rear dormer, outbuilding and front porch and remove all items and debris, arising from that demolition, and remove all materials associated with the unauthorised use and development, from the premises.
 3. Restore the internal configuration to the layout which existed prior to the unauthorised change of use and unauthorised development took place, as shown in "Plan A" attached to this notice.
 - The period for compliance with the requirements is six 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.
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Appeal B Ref: APP/T5150/W/24/3348912

11 Woodfield Avenue, Wembley, HA0 3NP

- 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 N Ogbemor (Llann Investment Ltd) against the decision of the Council of the London Borough of Brent.
 - The application Ref is 24/1302.
 - The development proposed is erection of a two-storey rear extension, hip-to-gable roof extension, rear dormer, front porch and outbuilding (retrospective).
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Decisions

Appeal A

1. It is directed that the enforcement notice is corrected and varied by:
 - Adding the words "Reinstate the elevations to their design/appearance prior to the works taking place" to the end of requirement (Step) 2 in Schedule 4.
 - Deleting six months and the substitution with nine months as the time for compliance in schedule 5.

2. Subject to the correction and variation, the appeal 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

3. The appeal is dismissed insofar as it relates to the two-storey rear extension, hip-to-gable roof extension and rear dormer.
4. The appeal is allowed insofar as it relates to the front porch and outbuilding and planning permission is granted for the front porch and outbuilding at 11 Woodfield Avenue, Wembley, HA0 3NP in accordance with the terms of the application, Ref 24/1302, and the plans submitted with it, so far as relevant to that part of the development hereby permitted and subject to the following condition:
 - (1) The outbuilding hereby permitted shall only be used for purposes incidental to the residential use of the house at No 11 Woodfield Avenue, as a single family Class C3 dwellinghouse.

Preliminary Matters

Appeals A and B

5. The Council has confirmed that its Residential Extensions and Alterations SPD2 January 2018 (the 2018 SPD) as referred to in the reasons for issuing the enforcement notice (subject to Appeal A) and the reasons for refusing the planning application (subject to Appeal B), has been replaced by the Supplementary Planning Document January 2025 of the same name (the replacement SPD). As my determination should be made against the replacement SPD, I invited the parties to consider how that may affect the cases made. The appellant confirmed that he had no further comments to make. The Council state that the modifications of the SPD do not affect the appeal development. As discussed below, I have not found that to be the case.
6. The appeals relate to a two storey, semi-detached house situated in a residential cul-de-sac. The appellant has extended the property by way of a part single, part two storey rear extension, a hip to gable roof extension, rear dormer and front porch. An outbuilding has also been erected in the rear garden.

Appeal A

7. All of the above operational development forms part of the alleged breach of planning control in the enforcement notice, along with a material change of use of the premises to flats.
8. Where, as in this case, an appeal is made under ground (a), the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control. The allegation therefore forms the description of development for which planning permission is sought.
9. However, the appellant has confirmed that the ground (a) appeal is made only in respect of the operational development. The appellant states that he does not seek permission for the flats. Accordingly, the evidence is focused on the operational development.

10. S177(1)(a) of the 1990 Act states that, on the determination of an appeal under s174, the Secretary of State may grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates. In other words, I have the power to make a split decision under s177(1)(a). I have therefore considered whether the ground (a) appeal should be allowed insofar as it relates to the operational development, in whole or in part. As I have not been asked to consider the acceptability of the use of the premises as flats, the ground (a) appeal insofar as it relates to the same, must be dismissed.
11. The appellant states that the outbuilding is used as a gym. I have considered whether that amounts to a hidden ground (b) appeal, that the breach of control alleged in the enforcement notice has not occurred, insofar as it relates to the outbuilding. However, the Council's evidence includes pictures from February 2024 which show the outbuilding fenced off from the rest of the garden, with a gate access. Internally the photographs show a shower room, a main room with wooden floor and rug, tables and chairs, cupboards, a fridge, a heating unit, an exercise machine, dartboard and domestic type curtains and blinds to the main window.
12. Although the Council confirms that it was vacant at the time of its site visit, a neighbour states that it had been rented out and lived in. Having regard to the internal layout and the external fencing, it is more likely to have been used for residential purposes at the time or prior to the enforcement notice being issued, rather than as an incidental gym, on the balance of probabilities. Therefore, even if a ground (b) appeal had been made, it would have failed for those reasons.

Appeal B

13. The refused planning application seeks retrospective permission for the extensions and outbuilding, subject to the enforcement notice and Appeal A, but not for the use of the premises as separate flats. The use of the premises as a whole would be as a single-family dwellinghouse.

Appeal A

The Enforcement Notice

14. Requirement (step) 2 of the enforcement notice requires the demolition of the operational development set out in the alleged breach of planning control, namely the part single storey part two storey rear extensions, hip to gable roof extension, rear dormer, outbuilding and front porch, and to remove all materials arising.
15. Whereas the third requirement is to restore the internal configuration, there is no requirement to reinstate the elevations to their design/appearance prior to the works taking place. Although correcting the notice to include such a requirement would arguably make it more onerous, it is very likely that the appellant would want to make good the property after such significant demolition, and, without the requirement, planning permission would likely be required to carry out the necessary building works.
16. I will therefore correct the notice to include that requirement, under the powers transferred to me by s176(1)(a) of the 1990 Act. I am satisfied that doing so would

not cause injustice to the appellant, for the reasons explained, or the Council, as the requirement would logically follow from the allegation and would address an otherwise harmful, partly complete development.

Main Issues

17. As the appellant has confirmed that he is not appealing against the material change of use of the property to flats, it is not necessary for me to consider whether its configuration for that purpose provides acceptable living conditions for occupants. Nor is it necessary to consider the effect of the change of use on the living conditions of neighbouring occupants, the character and appearance of the area or on the Borough's stock of family housing.
18. The residual main issues are the effect of the operational development on the character and appearance of the area and the living conditions of the occupiers of No 9 Woodfield Avenue, with particular regard to outlook and light.

Reasons

Character and appearance

19. Woodfield Avenue is a residential cul-de-sac made up from what originally would have been similarly designed, hipped roof, semi-detached dwellings with two storey bay windows and an absence of an enclosed front porch.
20. The hip to gable extension and the enclosed front porch are therefore out of keeping with the original character of the house. The result is an unbalancing of the semi-detached pair, the prominence of which is exacerbated by the bright new and highly contrasting tiles to both the main roof and the porch roof.
21. However, many other dwellings in the road have been altered and extended, such that the cohesiveness derived from the original common design features of the street scene, has been significantly diluted. Indeed, there are five differing porches in a row immediately next to the appeal site, all of which project beyond the respective bay windows. I also saw many others elsewhere in the street. I appreciate that they needn't justify that at the appeal property but, because of the extent of the surrounding change, the porch does not appear out of place. Moreover, the Council does not show that it is seeking to address the other porches in the street by way of enforcement action, save for that at No 15 Woodfield Avenue.
22. The replacement SPD states that a hipped roof could be converted to a gable roof, subject to consideration against the roof design of any two [presumably storey¹] side extensions to the home to ensure the overall roof design complements the character of the street. The appeal property does not have a side extension and hip to gable roof extensions are also prevalent within the street scene to the extent whereby they are a common feature, materially influencing the character and appearance of the area. I am also mindful that the brightness of the new roofing materials will also become more muted in time. Taken in isolation, the hip to gable extension, when viewed from Woodfield Avenue, does not therefore result in unacceptable harm.

¹ As referred to in the corresponding section of the 2018 SPD

23. Moreover, as it is usually permitted development, a certificate of lawfulness was previously granted for a hip to gable extension with a rear dormer and two front rooflights². The Council states that the development doesn't accord with the LDC plans, but, as I have not been provided with the relevant details, I am unable to make a judgement on that, and the appellant has not made an appeal on ground (c) that there has not been a breach of planning control.
24. The rear dormer as built runs to the full width of the enlarged roof but, as per the replacement SPD, is set up from the eaves, as well as being set down from the ridgeline. The appellant also provides photographic evidence of other similarly sized dormers in the vicinity of the site, although I am unaware of their planning status. Nevertheless, taken in isolation, the dormer extension does not result in unacceptable harm.
25. Save for its height, the rear ground floor flat roof extension falls within the size parameters of the replacement SPD and taken in isolation, does not detract from the appearance of the host dwelling or the surrounding area.
26. Although the footprint of the first floor extension is relatively small compared to the ground floor extension on which it sits, it does, nonetheless, introduce a hipped roof which extends beyond the main side wall of the building and to a height commensurate with the window level in the dormer.
27. Whilst a hipped roof may have been appropriate in the context of the original main roof design, the latter has now been extended from a hip to a gable. The resultant awkward juxtaposition of a hipped roof between the flat roof of the ground floor extension and the flat roof of the dormer extension, against a backdrop of the gable main roof, results in a visually jarring, mismatch of styles and unacceptable cumulative harm to the architectural composition of the building. Although not visible from the road, that arrangement will be clearly visible from neighbouring properties.
28. The outbuilding is conventionally positioned at the rear of the garden. From what I could see and from the aerial photographs provided, similar sited outbuildings are relatively commonplace in the area. Whilst the footprint is marginally larger than that stipulated in the replacement SPD, within the context of a relatively large garden, it does not look out of place and does not result in unacceptable harm to the character and appearance of the area.
29. Nevertheless, I find that the first floor rear extension, because of its relationship with the dormer, the hip to gable extension and single storey rear extension, results in unacceptable harm to the character and appearance of the area, contrary to BLP Policies DMP1 and BD1 and the replacement SPD. Those state, amongst other things, that all new development must be of the highest architectural and urban design quality.

Living conditions of neighbouring occupants

30. The parties refer to the 2018 SPD which states that the maximum depth normally permitted for single storey rear extensions is 3m, although an extension up to 6m in depth may be acceptable provided that for every additional metre beyond 3m in

² Ref: 20/4090

depth, the extension should be set in from the boundary by an additional metre to protect neighbouring residential amenity.

31. However, the replacement SPD states that a single storey extension could be up to the full width of a home, and, for attached homes, up to 6m in depth from the original rear wall - without stipulating the stepped requirement. Single storey rear extensions of more than 3m in depth for an attached home, as in this case, could also be up to 4 metres in height as long as they have an eaves height of no more than 2.5 metres along the boundary to any neighbouring properties.
32. The Council states that the plans show the flat roof extension to be between 2.75 and 2.85m in height along the side elevation to No 9. Those dimensions, which the appellant does not show to be incorrect, therefore exceed those specified in the replacement SPD. Moreover, the existing drawings do not show that the extension has been built with side parapet walls which further increases its height when viewed from No 9.
33. The aerial photographs show that No 9 has not been extended at the rear of the property and that a window is positioned in the rear back wall close to the side of the ground floor extension. In the absence of evidence to the contrary, that window is likely to serve a habitable room. As a result, the extension, by reason of its overall height, length and proximity, is likely to amount to an overbearing and oppressive feature that dominates the outlook for those neighbouring residents for a considerable distance along the common boundary. Moreover, given its position to the south of that window, the extension is very likely to adversely affect the amount of sunlight entering it.
34. Although the appellant states that the Council confirmed in August 2014 that prior approval was not required for a single storey rear extension to a depth of 5m, I have not been provided with the details of the same so as to understand the height of that extension and its position in relation to the neighbouring property³.
35. The appellant has provided an aerial image which he says shows similar depth extensions at neighbouring properties. However, the Council has confirmed that the extension at No 15 is also subject to an enforcement notice and a separate appeal. Moreover, the relative position of the extension at No 17 Woodfield Avenue reflects the step in the main front building line, rather than a reasonably comparable building operation. The examples referred to do not therefore serve as precedent to that which is before me.
36. The replacement SPD states that if an outbuilding is within 2m of the boundary to a neighbouring garden, then it mustn't be more than 2.5m in height. In this case the outbuilding has been built to the full width of the plot so is adjacent to both side boundaries. Although at 2.57m the outbuilding is higher than the SPD requirement, the marginal difference does not result in unacceptable harm to the living conditions of the neighbouring occupiers, given the large size of their flanking gardens.
37. Nevertheless, I find that the ground floor rear extension results in unacceptable harm to the living conditions of the occupants of No 9, contrary to BLP Policy DMP1 and the replacement SPD, which state, amongst other things, that

³ Ref: 14/2664

development will be acceptable provided it is of a siting, layout, scale and design that provides high levels of internal and external amenity.

Request for a split decision

38. It is possible in both enforcement and planning appeals to make a 'split decision' and grant planning permission for some parts of the development in question and not others. In order to make a split decision, the relevant parts of the development must be severable.
39. The appellant has requested that I consider issuing a split decision in favour of the outbuilding, and any other discreet elements found to be acceptable.
40. As an entirely separate structure at the end of the garden, the outbuilding is clearly physically severable. However, BLP Policy BH12 states that planning permission will only be granted for outbuildings that will not be residential accommodation or do not support the increased occupation of a dwelling. As noted, the appellant has confirmed that he does not seek planning permission for the use of the premises as flats, and states that the outbuilding is used as an incidental gym.
41. In principle, planning permission could be granted subject to a condition stipulating that it is used for incidental purposes only. However, an incidental use is one which is functionally related to a primary use. In this case, the enforcement notice requires the use as flats to cease. Quite properly, it does not require the use as a Class C3 dwelling house to resume. Indeed, an enforcement notice cannot require that a lawful use is actively carried out. I cannot therefore impose an incidental use condition because, although unlikely, the appellant may not choose to resume the lawful primary use to which the condition would need to refer/anchor.
42. For the reasons explained, I have found the hip to gable roof extension and the dormer extension to be acceptable, taken in isolation, but the first and second floor extensions to be unacceptable.
43. In roof plan, the roof of the first floor extension appears to be physically distinct from the dormer and main roof. However, in elevation, they all appear physically connected, reflecting my own observations. The hip to gable extension and dormer extension are not therefore severable from the unacceptable first floor and ground floor extensions and no evidence is provided by the appellant which shows otherwise.
44. Having regard to the above, the porch is the only aspect that could be subject to a split decision. In the circumstances, it is more appropriate to only make a split decision and allow the acceptable parts of the development on the linked s78 appeal against the refusal of planning permission. That would also allow the outbuilding to be retained, subject to the necessary condition, as explained under Appeal B. It would also be easier for the Council to enforce against any deviation from the conditional planning permission granted. S180(1) of the 1990 Act will then take effect to override the enforcement notice so far as that it is inconsistent with the planning permission.

Conclusion

45. For the reasons given above, I conclude that the operations described in the enforcement notice (save for the porch) are contrary to the development plan as a whole and material considerations do not indicate that the appeal should be

determined otherwise than in accordance with the development plan. The ground (a) appeal should not therefore succeed. I shall refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

The Appeal on Ground (g)

46. The ground (g) appeal is that the six months given to comply with the notice is too short. A period of 12 months is requested.
47. The appellant states that the building is let to tenants who occupy the building under tenancy agreements and that the Housing Act requires that the appellant give them sufficient notice before taking possession of the building. He further argues that notices must be served on a rent due date and if any tenant declines to leave, legal action may be required.
48. Whilst no evidence is provided of the notice period required to be given to residents in their respective tenancy agreements, I am nevertheless mindful that residents would need to leave the premises in advance of the demolition work, thereby shortening the available notice period and the time for residents to find alternative accommodation.
49. I agree that the demolition of the various extensions and outbuilding would be a significant endeavour, requiring detailed technical plans to be prepared and for builders to be tendered, instructed and scheduled. I also agree that the works themselves are likely to take several months. Nevertheless, occupation could overlap with preparations leading up to the demolition work, so a period of 12 months is not justified.
50. A period of nine months would strike a reasonable and proportionate balance between any difficulties and disruption the appellant and tenants may encounter, and the public interest in this case. It would also allow the appellant sufficient time to prepare and submit a planning application, with a view to severing acceptable elements and potentially avoiding abortive works.
51. The appeal on ground (g) succeeds to that extent.

Appeal B

Main Issues

52. The Council's fourth reason for refusal is that, by reason of inaccurate and inconsistent plans in relation to the height and design of the proposed rear extension, front fenestration and rear fenestration, the effect on character and appearance and the living conditions of neighbouring residents cannot be fully considered.
53. However, given that the application is retrospective in nature, I am satisfied that I have been able to properly make those assessments based on my own site visit, taking into account the differences observed to that shown on the plans.
54. The residual main issues are:
 - the effect of the development on the living conditions of the occupiers of No 9, with particular regard to outlook and light;

- the effect of the development on the character and appearance of the area; and
- whether the outbuilding is reasonably required for purposes incidental to the main dwelling.

Reasons

Living conditions of neighbouring occupants

55. For the reasons explained under Appeal A, the ground floor rear extension is likely to amount to an overbearing and oppressive feature which dominates the outlook from the adjacent ground floor window of No 9. Moreover, given its position to the south of that window, the extension is very likely to adversely affect the amount of light entering it.
56. That aspect of the development therefore results in unacceptable harm to the living conditions of the occupants of No 9, contrary to BLP Policy DMP1 and the replacement SPD.

Character and appearance

57. For the reasons explained in relation to Appeal A, I have found the hip to gable extension and the porch to be acceptable in terms of their effect on the host building and street scene.
58. I note that the existing and proposed plans for the porch show an off-set front door with window to the side. However, the existing porch has a central door with flanking glazing, which amounts to a material improvement in visual terms.
59. Taken in isolation, I also find the ground floor extension and dormer extension to be acceptable in visual terms, although I note that the existing and proposed plans show the dormer set in from the side nearest the attached dwelling at No 9. In the unlikely event that the appellant wishes to reduce the size of the existing dormer, that arrangement would also be acceptable in character and appearance terms.
60. However, the first floor extension, as seen in conjunction with the ground floor extension and the dormer extension, results in significant and unacceptable cumulative harm to the character and appearance of the area, contrary to BLP Policies DMP1 and BD1 and the replacement SPD.

Whether the outbuilding is incidental

61. The Council's third reason for refusal is that the outbuilding, due to its size combined with the provision of bathroom facilities and independent access, cannot be considered as being reasonably required for purposes "incidental" to the main dwelling.
62. As explained, an incidental use is one which is functionally related to the primary use. By definition then, an incidental use cannot be one that is integral to or part and parcel of the primary use. It is implicit in the requirement for there to be some functional relationship that an incidental use will not be the same as the primary use.
63. In this case, the proposed plans show that the primary use of the main building would be as a single dwelling, rather than flats. The proposed use of the

outbuilding as a gym is clearly capable of being a use incidental to that residential use and the size is not unreasonably large for that purpose. Moreover, although a shower room would usually be comprised within the primary living accommodation, such facilities at a subservient scale are also normally found as part of an incidental gym use.

64. Nevertheless, I understand the Council's concerns over the potential residential use of the outbuilding, although the building does not presently provide facilities required for day to day living and the plans do not show provision of a kitchen. In any case, a condition could be imposed to ensure that the outbuilding is used only for purposes incidental to the enjoyment of the main house, thereby preventing a replication of the residential accommodation and use as a separate dwelling.
65. That in turn would ensure compliance with above referenced BLP Policy BH12, as well as alignment with the replacement SPD, insofar as it states that a planning condition will be applied to all outbuildings to ensure that they remain incidental and are not used as a self-contained home.

Other Matters

66. I note the neighbour's concern that the building work has resulted in damage to her property, however, that is a private matter between the parties, whilst the surfacing of the rear garden is not part of the matters before me.
67. I also note the objections received regarding the use of the property as flats, but the proposed floor plans show its use as a single dwelling.
68. As explained under Appeal A, it is possible in both enforcement and planning appeals to make a split decision and grant planning permission for some parts of the development and not others, if the relevant parts are severable.
69. As an entirely separate structure at the end of the garden, the outbuilding is clearly physically severable and its use for incidental purposes to the main dwelling is capable of being secured by way of condition. The porch is also a discreet element that is severable.
70. As explained, I have found the hip to gable roof extension and the dormer to be acceptable, but those aspects are not physically severable from the unacceptable first floor extension, which in turn is attached to the unacceptable ground floor extension.
71. I will therefore allow the appeal insofar as it relates to the porch and outbuilding but dismiss the appeal insofar as it relates to the hip to gable extension, the dormer extension and the two storey rear extension. As the parties have had opportunity to make representation on the merits of the various parts of the development, I am satisfied that no injustice will arise from me issuing a split decision.

Conditions

72. For the reasons explained, a condition is necessary to ensure that the outbuilding is used for incidental purposes only. The appellant has confirmed his agreement to the same.

73. I have noted the Council's other suggested conditions, but as the appeal is retrospective in nature, time commencement and materials conditions are not necessary. For the same reason, a plans condition as it applies to the outbuilding is not necessary.
74. As explained, I have found the existing porch design to be preferable over that shown on the proposed plans. For that reason, I have not imposed a condition requiring the existing porch to be modified to accord with the submitted plans.

Conclusion

75. For the reasons given above the appeal should be allowed in part and dismissed in part.

Richard S Jones

INSPECTOR