



Appeal Decision

Site visit made on 12 August 2025

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 August 2025

Appeal Ref: APP/A5270/C/23/3325567

12A Norman Avenue, Southall, Ealing UB1 2AU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Kulbir Singh against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The notice was issued on 30 May 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a single storey side extension for the purpose of a separate dwelling.
 - The requirements of the notice are: 1. Cease the use of the single storey side extension as a separate dwelling. 2. Remove all kitchen facilities, including cooking equipment, cupboards, worktops and sinks within the single storey side extension that facilitate its use as a separate dwelling. 3. Remove all washing and toilet facilities within the single storey side extension that facilitate its use as a separate dwelling. 4. Demolish the single storey side extension constructed as a separate dwelling. 5. Remove all resultant debris.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (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.
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Decision

1. 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.

Preliminary Matters

2. The expediency of taking enforcement action can only be considered by way of Judicial Review.
3. The plan attached to the enforcement notice is sufficiently accurate. The precise boundaries of the land to which the notice relates are specified, as required by Regulation 4(c) of the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002.
4. My decision takes into account the revised National Planning Policy Framework, which came into force during the course of the appeal.
5. I do not intend to initiate an award of costs. There is little demonstrable evidence of the Council having behaved unreasonably in the appeal resulting in the appellant incurring unnecessary or wasted expense.
6. An appeal has also been made in relation to another enforcement notice issued by the Council, alleging use of the freestanding single storey residential outbuilding at the rear of the appeal property in breach of condition No 4 of planning permission reference 161637FUL.¹ That appeal is the subject of a separate Decision.

¹ Appeal Ref: APP/A5270/C/23/3325563

Ground (b) appeal

7. The ground of appeal is that the matters stated in the enforcement notice have not in fact occurred. The property contains a two-storey, end of terrace residential building, with a self-contained flat on each floor. No 12 is on the ground floor, with No 12A on the first floor. A single storey extension has been erected at the side of the building. A bedroom and a WC/bathroom are at the front of the extension. In the rear room are items including furniture, domestic paraphernalia and decorating supplies. The extension can be accessed externally from doors in the side elevation, or via an interconnecting door in the building hallway.
8. Evidently, the extension is not currently used as a separate dwelling. Even so, to succeed on this ground the appellant would have to show that, on the balance of probability, the extension was not constructed for such a purpose. In a sworn statement, the appellant affirmed that the pitched roof part of the extension was erected pursuant to planning permission reference 161637FUL for works including a single storey side extension to No 12A and was substantially completed in September 2019, the smaller flat roof addition being erected in November of that year. The appellant went on to affirm that a bathroom was fitted for the ease of potential occupants but, as no cooking facility was installed, the extension had never been used as a separate dwelling. Similar points were made in the appellant's response to the Council's Planning Contravention Notice.
9. The Council's evidence includes a copy of a contemporaneous file note of a visit to the property made on 3 April 2023. This records an interview with a female who claimed that they occupied the extension and had no access to the rest of the building. Copies of photographs of the exterior of the property taken during that visit show laundry drying on a line and a clothes horse along with baby buggies in the yard at the rear of the extension, pairs of ladies' shoes on or close to a doormat outside a side entrance door with a banner hung above, together with '12B' as well as '12A' written on a post box at the front of the building. Other Council evidence includes a copy of a contemporaneous file note of a visit made on 25 May 2023, which records one of the tenants of No 12A stating that a couple with two children had recently vacated the extension and that the interconnecting door had been fitted the previous day. Copies of photographs taken on the same date show the interconnecting door with few items of domestic paraphernalia in the yard or at the side of the extension.
10. There is little before me which might cast doubt on the accuracy of the Council's evidence. The appellant did not offer any explanation as to why a person would claim that they occupied the extension separately from the rest of the building if that had not in fact been the case. Whilst the identity of the occupier is not recorded, that does not reduce the value of the Council's evidence to any great extent. The person in question is shown in some of the Council's photographs. An interested party, who referred to people living in the extension with a small child, is also supportive of its separate occupation, although another interested party stated that the extension had not been used as a dwelling.
11. No internal inspection of the extension was undertaken by the Council prior to the issuing of the notice. However, the presence of drying laundry and other domestic paraphernalia in the yard and at the side suggests that the extension could well have been occupied residentially when the Council visited in April 2023. Removal of the majority of such items by the time the Council visited again on 25 May 2023, i.e., after the extension had, according to the tenant of No 12A, been vacated, also points to occupation at the earlier date. Furthermore, having '12B' on the post box is indicative of a separate postal address at the property in addition to Nos 12 and 12A. The appellant offered no explanation for the presence of clothes washing and domestic paraphernalia in the yard and at the side of the extension in early April 2023 but not at the end of May that year. Nor did they explain why there was an additional postal address at the property.

12. Nor did the appellant explain why the tenant of No 12A would have told the Council during the 25 May 2023 visit that the extension had recently been vacated and the interconnecting door fitted the previous day. The description of the extension as having been occupied by a couple with two children suggests that the tenant was well aware of those people and when they moved away. The tenant did not provide any direct evidence to suggest their comments had been misinterpreted. There is little firm evidence to support the existence of unrestricted access between the extension and the building prior to the Council's May 2023 visit. Without such access, use of the extension could well have been separate, physically and functionally, from that of the building. The inability to reconcile the differences between the evidence pointing to the separate residential occupation of the extension and the appellant's account of events tempers the weight I can attach to their sworn testimony.
13. Other evidence provided by the appellant included a copy of the Building Regulations certificate of completion relating to the extension, issued in November 2019. Amongst other things, the certificate states that the extension is not a new dwelling. However, this document can only carry limited weight, as it is unclear whether its issue followed a detailed internal inspection of the extension.
14. Although the extension currently has no kitchen facilities, the rear room has pipework for services including a mains water supply, as well as electrical sockets—some at a level around that of a kitchen worktop, with the floor being covered in kitchen style tiling. The condition of at least one internal wall suggests that wall fittings could have been removed at some stage. No explanation for the pipework, sockets, flooring and the internal wall condition was offered by the appellant. Copies of the Council's contemporaneous notes and photographs of a visit made on 1 June 2023 record that an oven was stored in the outbuilding. If the appellant had an alternative explanation for the presence of the oven other than that it had been removed from the extension, none was provided.
15. Therefore, I cannot discount the possibility that the extension had kitchen facilities when it was substantially completed. That would have afforded the occupiers the facilities required for day-to-day private existence, the distinctive characteristic of a dwelling according to established case law². The presence of such facilities is also consistent with the evidence pointing towards residential occupation of the extension separately from No 12A, set out above. The appellant did not provide firm evidence to support their claim that there were never kitchen facilities in the extension. Subsequent removal of those facilities would make little difference to whether the alleged breach had occurred prior to the notice being issued.
16. Drawing the above matters together, based on the available evidence I am not persuaded that the appellant's account of events at the property is sufficiently clear and precise to show that, on the balance of probability, the extension was not erected as a separate dwelling. Therefore, the appellant has been unable to show that the matters stated in the notice have not, in fact, occurred. The ground (b) appeal fails.

Ground (c) appeal

17. The ground of appeal is that the matters stated in the notice do not constitute a breach of planning control. The evidential burden and standard of proof are the same as in the previous ground.
18. Erecting the extension involved carrying out building operations within the meaning of development in s55(1) of the Act. Planning permission is required for the carrying out of any development of land, having regard to s57(1) of the Act.

² *Gravesham BC v SSE & O'Brien* [1982] 47 P&CR 142; [1983] JPL 307

19. There are clear outward similarities between the design and external materials of the 'as built' extension and the approved scheme under reference 161637FUL. In particular, the pitched roof part of the extension is similar in terms of its size and external appearance to the approved scheme. However, that permission does not relate to erection of a separate dwelling. Moreover, the differences between the 'as built' extension and the approved scheme go beyond installing a WC/bathroom and internal partition walls. By erecting a flat roof addition at the rear, the extension is significantly larger than that shown on the approved drawings and there are further door and window openings. The materially different use and the significant deviations from the approved scheme mean that the development cannot benefit from the above permission.
20. The development is not granted planning permission by any Class in any Part of Schedule 2 to Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). No express grant of planning permission for the development was drawn to my attention. The definition of a breach of planning control in the Act at s171A(1) includes carrying out development without the required planning permission.
21. Therefore, the appellant is unable to show that the matters stated in the notice do not constitute a breach of planning control. The ground (c) appeal also fails.

Ground (a) appeal

Main Issues

22. The terms of the deemed planning application arising from an appeal made on ground (a) are derived from the matters stated in the enforcement notice as constituting a breach of planning control. Erection of the extension other than as a separate dwelling is not part of the breach alleged in the notice and falls outside the scope of the matters which can be considered in the ground (a) appeal. The power in s177(1)(a) of the Act to grant planning permission does not extend beyond the whole or part of those matters, or the land to which the notice relates. Therefore, the main issues in this ground of appeal are:
 - Whether suitable living conditions are provided for future occupiers of the separate dwelling, having regard to internal floor space, outlook, noise and disturbance and private outdoor amenity space.
 - The effect on the living conditions of occupiers of neighbouring residential property, having regard to noise and disturbance and private outdoor amenity space.
 - The effect on the character and appearance of the surrounding area.

Reasons

Living conditions-future occupiers of the dwelling

23. The extension has a modest floor area. There is limited space in the bedroom, which presumably also serves as a lounge for the dwelling, following the provision of the double bed, a table and a wardrobe. There is little space for lounge furniture or for storing day-to-day household items and personal possessions, leading to this room having an appreciably cluttered and restrictive feel. The room at the rear is also of limited size. Little space would be left after the provision of everyday kitchen fittings such as work surfaces, cupboards, a sink and drainer and an oven and hob along with everyday household appliances including a fridge/freezer and a washing machine. As a result, the extension provides an uncomfortably cramped internal living space for use as a dwelling.
24. According to the appellant, the extension has a gross internal floor area (GIA) of around 22m². This is less than half of the 50m² GIA minimum internal space

required for a new one-bedroom, two-person flat in Table 3.1 to Policy D6 of the London Plan (LP). The substantial shortfall in GIA when assessed against the minimum internal space requirement in LP Policy D6 reinforces my misgivings concerning the restrictive size of the dwelling. Whilst the LP may be focussed on larger scale developments, as part of the Development Plan its policies are nonetheless relevant to all planning decisions taken affecting the capital.

25. The bedroom/lounge has a single aspect, being lit by a window in the front elevation facing towards the street. Windows and doors in the side elevation open onto a narrow pedestrian passage and a tall boundary wall. The window in the rear elevation opens onto the modest-sized rear yard, in proximity to tall structures. As a result, the dwelling has a limited outlook with mostly restrictive outward views, leading to an increased reliance on artificial light sources. Along with the restrictive living space, this contributes to the occupiers experiencing an oppressive and largely unrelieved sense of enclosure in the dwelling.
26. The bedroom/lounge is alongside the communal hallway, the room at the rear adjoining the yard and being opposite the outbuilding. Given the likely activity and the number and frequency of comings and goings associated with the use of these shared spaces, it is highly probable that occupiers of the dwelling experience significant incidences of noise and disturbance on occasion. This does not contribute to providing comfortable and relatively peaceful living space within the dwelling. There is no suggestion that sound insulation was installed to assist in mitigating the effects of noise and disturbance on occupiers of the dwelling, or that persons other than the occupiers are restricted from accessing the yard and the outbuilding.
27. As the yard is used by other persons, it cannot also provide a private outdoor amenity space for occupiers of the dwelling. This leaves little opportunity for occupiers to undertake activities that might typically be associated with a private outdoor amenity space including informal relaxation, cultivating plants and drying laundry. Also, the yard is largely surrounded by buildings with access via a narrow passage between structures, having a confined and oppressive feel which emphasises the restrictive living environment experienced by occupiers of the dwelling, as well as not meeting their functional needs.
28. The above is not consistent with Ealing's Planning New Garden Space Supplementary Planning Document, which concerns the qualitative aspects of outdoor amenity space provision. Nor does it meet Table 7D.2 of the Ealing Development Management Development Plan Document (DPD), which typically requires an area equating to 15m² private outdoor amenity space to be provided for a new flat which should also be, amongst other things, fit for purpose, genuinely private and not permanently overshadowed. This includes the baseline requirement of 5m² private outdoor space for new one to two person dwellings derived from the Mayor of London's Housing Supplementary Planning Guidance.
29. Therefore, suitable living conditions are not provided for future occupiers of the dwelling. This is in conflict with criteria in LP Policy D6, which require new development to provide adequately sized rooms with at least the GIA in Table 3.1, with comfortable and functional layouts which are fit for purpose, avoiding the provision of single aspect dwellings and providing sufficient daylight and sunlight appropriate to the context. It also conflicts with DPD Policy 3.5, which requires new development to meet similar minimum space standards.
30. Additionally, there is conflict with criteria in LP Policy D3, which require new development to deliver appropriate outlook, privacy and amenity, to achieve indoor and outdoor environments that are comfortable and inviting for people to use and to help prevent or mitigate the impacts of noise. Furthermore, there is conflict with criterion in DPD Policy 7B, which requires new development to achieve a high standard of amenity for users, including by ensuring good levels of privacy, daylight

and sunlight and appropriate levels of site development. Moreover, by not contributing to the demand for open space there is conflict with criterion in DPD Policy 7D.

Living conditions-occupiers of neighbouring residential property

31. Given the largely residential setting, occupiers of No 12 and No 12A along with those of neighbouring dwellings might reasonably expect to enjoy relatively good levels of peace and tranquillity, as well as fairly high levels of privacy, at most times. The dwelling introduces considerable additional day-to-day activities, cooking smells and artificial lighting along with pedestrian comings and goings, in proximity to the side elevation of Nos 12 and 12A. This is all likely to have led to neighbouring occupiers experiencing a significant and appreciable increase in incidences of noise and other disturbance, compared to before the dwelling was erected. Furthermore, sharing the rear yard with occupiers of the dwelling means that occupiers of No 12A no longer have access to private outdoor amenity space.
32. Consequently, the dwelling unacceptably erodes the living conditions enjoyed by the occupiers of neighbouring residential property. This conflicts with criteria in LP Policy D3, which requires new development to help prevent or mitigate the impacts of noise. It conflicts with criterion in DPD Policy 7B, which requires new development to achieve a high standard of amenity for adjacent uses. Also, there is conflict with criterion in DPD Policy 7A, which requires new development to not erode the amenity of surrounding uses or the site itself, whilst the adverse effect on open space conflicts with criterion in DPD Policy 7D.

Character and appearance

33. The property is located in an established residential area, the surroundings including many dwellings of similar age, scale and architectural style. In general, the dwellings are neatly arranged in short rows, set back similar distances from the street and they occupy rectilinear plots with good sized front and rear gardens. These factors all contribute to the reasonably spacious, orderly and pleasant if nondescript suburban residential character and appearance of the surroundings.
34. The dwelling is of modest proportions in comparison with the generally more substantial built footprint and scale of residential properties in the environs. It is of a size more akin to an extension to an existing residence, as opposed to a new separate dwelling. The plot is of limited size compared to the more generously portioned grounds of most dwellings in the locality. There is little space around the dwelling and few opportunities for providing adequate outdoor amenity space or for softening landscaping. Also, with pedestrian access via a passage at the side the dwelling lacks an active street frontage. As far as I was made aware, no other extensions in the vicinity are used as a separate dwelling.
35. The above factors have all led to the dwelling appearing cramped and restricted on the plot, in marked contrast with the more spacious and orderly qualities of local development and contributing to it being viewed as an alien feature in the surroundings. Furthermore, the likely accumulation of additional waste and recycling receptacles associated with the dwelling at the front of the property is inconsistent with the generally limited numbers and more discreet siting of such receptacles at neighbouring residential property. The approved scheme has a limited bearing on this matter, as it did not relate to a new separate dwelling.
36. Consequently, the dwelling causes unacceptable harm to the character and appearance of the surrounding area. This is in conflict with DPD Policy 7.4D, which requires development in the existing built areas to complement their street sequence, building pattern and scale, amongst other things. It is also in conflict with criteria in LP Policy D3, which require new developments to be the most appropriate form and land use for the site responding to its context and to enhance

local context by delivering buildings and spaces that positively respond to local distinctiveness.

Conclusion-Ground (a) appeal

37. Suitable living conditions are not provided for future occupiers of the dwelling and there is harm to the living conditions of occupiers of neighbouring residential property, as well as harm to the character and appearance of the surrounding area, in conflict with the Development Plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the Development Plan. Therefore, the ground (a) appeal does not succeed.

Ground (f) appeal

38. The ground of appeal is that the steps required by the notice are excessive.
39. An enforcement notice can have the purpose of remedying the breach of planning control, including by restoring the land to its condition before the breach took place, and/or it can have the purpose of remedying any injury to amenity which has been caused by the breach.
40. It is clear on the face of the notice that its purpose is to remedy the breach. The steps are consistent with achieving that purpose, as the dwelling would be removed and the property restored to its condition before the breach took place. In that context, any step which led to the extension remaining in situ would sustain part of the breach and so would not achieve the purpose of the notice. Also, not requiring demolition of the extension would grant unconditional planning permission for a dwelling, having regard to the effect of the Act at s173(11).
41. Since the planning permission has expired, erection of the permitted extension is not a realistic 'fallback' position. The appellant did not suggest an alternative to the notice steps that would also remedy the breach and to my mind, there is none.
42. Therefore, the notice steps are proportionate, being the minimum actions required to remedy the breach. The ground (f) appeal also fails.

Ground (g) appeal

43. The ground of appeal is that the time allowed for complying with the notice requirements is too short.
44. The occupiers of No 12A are unlikely to need more than a couple of weeks to vacate the additional bedroom space provided by the extension; there is no firm evidence before me to indicate otherwise.
45. The remedial works would be a small-scale and straightforward task for a suitably experienced building contractor. No specialist plant or equipment would be needed and the works are unlikely to take more than a few weeks at most to complete. There are likely to be a considerable number of suitable contractors who would be available to undertake the works, given a reasonable period of notice. There is no firm evidence of any significant shortage of suitable contractors or of clients experiencing lengthy waiting times before works can commence. I appreciate that the works are likely to adversely affect the appellant's finances. Even so, there is no firm evidence to suggest that securing any necessary funding would present the appellant with particular difficulties or could not be arranged reasonably quickly.
46. Accordingly, in my estimation the six-month period specified in the notice is not too short and is reasonable. An appropriate balance is struck between remedying the breach as soon as practicable whilst not placing a disproportionate burden on the appellant. There would also be an opportunity to explore whether a revised scheme along the lines of the approved extension for use as part of No 12A would be favourably considered by the Council. Extending the compliance period on the

other hand would do little more than perpetuate the breach. The ground (g) appeal also fails.

Conclusion

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

Stephen Hawkins

INSPECTOR