



Appeal Decisions

Site visit made on 24 January 2025

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 02 September 2025

Appeal A Ref: APP/N5090/C/23/3316208

11A Fordham Close, Barnet EN4 9AJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended)(the "Act").
 - The appeal is made by Ms Ligija Roberts against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice was issued on 12 January 2023.
 - The breach of planning control as alleged in the notice is 'without planning permission, the erection of an outbuilding (shown shaded in green on attached Drawing 01)'.
 - 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 months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Act. 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/N5090/W/23/3315845

11A Fordham Close, New Barnet, Barnet, EN4 9AJ

- The appeal is made under section 78 of the Act against a refusal to grant planning permission.
 - The appeal is made by Ms Ligija Roberts against the decision of the Council of the London Borough of Barnet.
 - The application reference is 22/5092/RCU.
 - The development proposed is a 'garden office'.
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Decisions

Appeal A

1. It is directed that the enforcement notice is varied by the deletion of '3' at paragraph 5 of the notice and the substitution of '6', so that it reads '6 months after the date this notice takes effect'.
2. Subject to the variation above, 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 Act.

Appeal B

3. The appeal is dismissed.

Preliminary Matters

4. The development has already been carried out. As such, in the appeals before me, Appeal B seeks retrospective consent for the garden office. I have amended the

description of development for which planning permission is sought in Appeal B, to remove the words '*retrospective application for*' as this is not an act of development.

5. The enforcement Appeal A on ground (a), the deemed planning application, concerns the erection of an outbuilding. In planning Appeal B, planning permission is sought for a garden office. Notwithstanding the difference in wording, both Appeal A and Appeal B concern the as-built 'outbuilding' constructed in the rear garden of the host dwelling. The appeals are therefore similar. To avoid repetition and duplication of the issues, I shall deal with the deemed planning application under ground (a) of Appeal A and the planning Appeal B together, except where otherwise indicated.
6. The parties have referred to the National Planning Policy Framework (2021) in their evidence. However, since making the appeal, the National Planning Policy Framework ("the Framework") has been revised on a number of occasions with the most recent revisions being made in December 2024. The parties have been given the opportunity to comment on the implications of the revised Framework through the appeals and I have taken comments made into account during determination of the appeals.
7. Since the appeals were registered, the Barnet Local Plan 2021-2036 (the LP) was adopted by the Council on the 4 March 2025. The LP replaces the 2012 Local Plan (LP 2012) which comprised the Barnet's Local Plan (Core Strategy) Development Plan Document (September 2012) and Barnet's Local Plan (Development Management Policies) Development Plan Document (September 2012). I therefore sought clarification from the Council regarding policies which have been superseded, replacement policies and the application of any replacement policies to the appeal scheme. The appellant was provided with an opportunity to provide their comments through this appeal.

The appeal on ground (a) and Appeal B

Main Issues

8. The main issues in both appeals are the effect of the development on:-
 - i) the character and appearance of the host property and the surrounding area; and
 - ii) the living conditions of occupants of neighbouring dwellings at 11, 12 and 12A Fordham Close having particular regard to their outlook.

Character and appearance

9. Fordham Close comprises a cul-de-sac within a predominantly residential area that is typically characterised by pairs of two-storey semi-detached dwellings of similar architectural style that are set back from the road behind a modest area of front garden. Rear gardens are generously sized and although a number contain outbuildings, generally, these tend to appear domestic in scale, subservient to the dwellings they serve and in keeping with the garden setting. There is a clear build line which follows the straight and curved line of the road and an established rhythm of built form and spaces between the dwellings. Spaciousness of rear gardens makes an important contribution to local distinctiveness.

10. The appeal dwelling is located towards the top of the cul-de-sac and is a maisonette that forms the upper floor of what was a semi-detached dwelling (the “original house”). A separate dwelling (No. 11) occupies the ground floor of the original house. The rear garden of the original house is generously sized and is subdivided into two parts. A modestly sized rectangular area of rear garden adjoins the rear elevation of the property and serves No. 11. A broadly L-shaped larger area of rear garden serves the host property and extends along the side and rear garden of No.11.
11. The outbuilding has been constructed within the rear of garden of No 11A. It is orientated to face towards properties located along Grove Road and as a result, the blank flank wall of the outbuilding is adjacent to, and sits well above, the existing rear boundary fence of the garden of No 11. Due to the change in land level between the original house and the outbuilding, it occupies an elevated position that is considerably higher than the rear garden area of No 11 and windows contained within the ground floor rear elevation of the original property.
12. Barnet’s Residential Design Guide Supplementary Planning Document (2016)(the “SPD”) sets out, among other things, that outbuildings should not be too large or significantly reduce the size of the garden to become out of character with the area.
13. The outbuilding is a substantial single storey structure measuring around 8 metres by 6 metres, with a floor area of around 48 square metres and a height of just under 3 metres, taking the measurements shown on the submitted plans. It occupies a position within the rear garden of the appeal dwelling and is situated in a position beyond the rear boundary fence of the garden for No.11. Since it faces towards the rear gardens of properties of Grove Road, there is an awkward arrangement of built form and as a result of this siting and orientation the outbuilding does not relate well visually to the host dwelling.
14. Whilst the outbuilding includes a shallow sloping mono-pitched roof form, it comprises a significant maximum height of some 2.96 metres, taking the measurement provided by the appellant within the application form which, when taken together with its substantial size, scale and bulk, it appears as a dominant, bulky and discordant feature. It fails to appear subservient to the host dwelling but rather, it stands out as a substantial, excessively tall and incongruous building, out of keeping with its garden setting.
15. The resultant size of the remaining garden area is considerably reduced by the footprint of the as-built outbuilding such that, although a modest area of rear garden is retained for use by the occupants of the appeal dwelling, the excessive reduction of rear garden space results in the outbuilding appearing as an excessive development of the plot by reason of its size, scale and bulk.
16. Given its size and position far beyond the rear of the main build line, it appears as an incompatible feature which fails to respect the pattern of built development and spaces within the surrounding area. Overall, I find it represents an overdevelopment of the site which is detrimental to the character and appearance of the original house and the spaciousness of rear gardens thus diminishing local distinctiveness.
17. Views of the outbuilding from public vantage points are limited by reason of its position to the rear of the host property, other built form and intervening boundary treatments and vegetation. Nevertheless, it remains highly visible from a number of

neighbouring dwellings and their gardens particularly given its elevated position from where it would be read is an inharmonious addition.

18. It has been put to me that the outbuilding has been built to a high standard and it includes the use of materials and joinery details which are not inconsistent with the wider area. However, even if this were the case, the use of appropriate materials and details is not sufficient to overcome the harm caused by reason of the excessive size, scale and bulk of the outbuilding. Existing soft landscaping and any additional planting is insufficient to mitigate the effect of the outbuilding on the character and appearance of the area.
19. Accordingly, I find that, by reason of its excessive size, scale and bulk, the outbuilding harmfully erodes the established character and appearance of the host dwelling and surrounding area. It is therefore contrary to Policy D3 of the London Plan (2021) insofar as it requires development proposals to enhance local context by delivering buildings and spaces that positively respond to local distinctiveness. It is also contrary to LP Policy CDH01 insofar as new development should be of a high quality design that, among other things, responds sensitively to distinctive local character and design. In addition, the appeal scheme would conflict with the guidance of the Council's SPD, the requirements of which are set out above.
20. The Council has also provided LP Policies GSS01, CDH04 and HOU03 which are shown, within the Council's submitted table of replacement policies, as being relevant to the appeal scheme. However, Policy GSS01 sets out the Council's approach to delivering sustainable growth, Policy CDH04 concerns tall buildings of 8 storeys and above, or 26 metres and above ground level and Policy HOU03 concerns residential conversions and the redevelopment of larger homes. To my mind, these policies are not determinative to the appeal scheme.

Living conditions - outlook

21. The SPD sets out that development should not be overbearing or unduly obtrusive and care should be taken to ensure there is, among other things, no harmful loss of outlook, sense of enclosure or overbearing impact on adjoining properties¹. With particular regard to back garden buildings, these should, among other things, not unduly affect outlook from adjoining property's habitable rooms or principal garden areas².
22. A number of windows are positioned within the rear elevations of Nos 11, 12 and 12A Fordham Close. Whilst little information has been provided to explain whether these windows serve habitable rooms, I note that they contain clear glazing and from my observations of the interior of the host dwelling and noting its layout and size, I consider it is likely that a number of those windows serve habitable rooms of the neighbouring properties and they have an outlook which faces towards the appeal building.
23. Although outbuilding is single storey, it is substantial in size, scale and bulk and notwithstanding that it has been set away from the boundary of the appeal site, it stands well above the existing boundary treatments forming the common boundaries with neighbouring properties.

¹ SPD Paragraphs 14.4

² SPD paragraph 14.40 and 14.41

24. No. 11 Fordham Close (No.11) is located within the ground floor of the original dwelling. It contains a number of windows and a door within its rear elevation. Given that the rear garden area of the original building is subdivided to provide separate areas of garden for the host dwelling and No 11, the subsequent area of rear garden serving No 11 is modestly sized and the gap between No 11 and the outbuilding is limited. As a result of the topography of the land and changing land levels, No.11 and its rear garden are positioned at a much lower level than land upon which the outbuilding is situated. Taken together with the limited height of the common boundary treatment and by reason of the extensive width and depth of the outbuilding, a considerable amount of the upper part of the outbuilding and its roof structure can clearly be seen beyond the common boundary.
25. Although the position of the outbuilding is not directly opposite Nos 12 and 12A, those properties are comprised within the attached semi-detached property to the appeal property and a similar limited sized gap exists between those dwellings and the outbuilding. Views of the outbuilding would be at an angle rather than face on. However, it is likely that, given the outbuilding's elevated position and its significant height and scale, despite intervening vegetation it can clearly be seen from within windows of the rear elevations of Nos 12 and 12A Fordham Close and from their rear gardens.
26. Given the substantial size, scale and bulk of the outbuilding together with its close proximity to neighbouring dwellings, the introduction of a substantial mass of built form above the existing boundary treatment results in the outbuilding looming large over rear garden areas of neighbouring dwellings. In my judgement, the outbuilding is likely to be viewed as a dominant, overbearing and oppressive intrusion that diminishes the neighbouring outlook from views from their garden and patio areas and windows within the rear elevations of Nos 11, 12 and 12A Fordham Close.
27. The submitted artist impression contained within the appellant's personal statement shows that vegetation would be planted along the common boundary with No.11. However, this would take some time to become established and, even once matured, the screening potential of vegetation can be compromised due to damage, ill-health and during the winter months when foliage is reduced.
28. Accordingly, I find that the outbuilding is unduly harmful to the outlook of neighbouring occupiers thus materially compromising their living conditions and it has failed to safeguard residential amenity. There is conflict with Policy CDH01 which seeks a good standard of amenity that will allow for acceptable outlook for adjoining and potential occupants and nearby users impacted by the development. In addition, the development fails to accord with the guidance of the SPD, the requirements of which are set out above.
29. Within the Council's table of replacement policies, LP Policy HOU03 is also stated to be relevant to this main issue. However, the appeal scheme is an outbuilding that has been constructed in the rear garden of the host dwelling and as LP Policy HOU03 is concerned with residential conversions and the redevelopment of larger homes, it is not determinative in this instance.

Other Matters

30. Whilst the reduction in size of the rear garden has been considered in light of the adverse effect on character and appearance, the Council do not suggest that the

retained garden area would be of an insufficient size to accommodate the needs of the occupants of the host dwelling. To this extent, the appeal scheme has not compromised the living conditions of existing and future occupiers of the host dwelling with regard to their ability to access private outdoor amenity space of adequate size and quality and therefore the appeal scheme accords with the guidance of the SPD insofar as it requires proposals for outbuildings should not compromise the use and function of the residual garden space. No adverse harm to neighbouring occupiers as a result of loss of light has been alleged nor has any harm to designated heritage assets been identified. However, the absence of harm is a neutral matter that weighs neither for nor against a proposal.

31. I note that the outbuilding does not contain kitchen or bedroom facilities. Whilst the principle of locating a home office within a domestic garden is not unacceptable, this is subject to the development being consistent with other policies of the development plan.
32. I have had regard to the appellant's comments that they relied upon the professional services of others in designing and building the outbuilding and the appellant's reliance upon their incorrect advice. While it seems, therefore, that the breach of planning control was not intentional, this does not weigh in support of the appeal scheme.
33. The appellant also advises that they have undertaken a scheme of renovation of the host dwelling and in doing so, they have made improvements to the garden area including the replacement of fencing, which is evidenced within the submitted photographs. However, such improvements are not dependent upon retention of the appeal building and are a neutral factor in my consideration of the appeal.
34. Reference has been made to a number of neighbouring properties where works have been undertaken and photographs have been provided. In particular, a two storey side extension at 8 & 8A Fordham Close, a loft conversion and two storey side extension at 15 Fordham Close, and a single storey extension at 10 Fordham Close. However, these developments, whether lawful or not, are not outbuildings constructed separate to their host dwelling and therefore, these developments are not directly comparable to the appeal scheme before me. I have determined the appeal before me based upon its individual planning merits.

Alternative Scheme

35. As part of the evidence provided for Appeal A, the appellant has provided a revised scheme which comprises an alteration to the roof structure from a sloping mono pitched roof to flat roof and a consequent reduction in the height of the roof structure such that height of the outbuilding would not exceed a maximum height of 2.6 metres. The appellant has submitted drawing number 1869-01 Rev B which shows the revised scheme.
36. Although advanced under ground (f), section 177(1) of the Act allows for a grant of planning permission for the whole or part of the matters stated in the breach of planning control. However, the work required to alter the outbuilding would be likely to require the removal of the roof and the side and front elevations would need to be cut down and reduced in height. Given the extent of the works necessary to make the development accord with the revised drawing, I take the view that the proposed scheme does not form part of the matters specified in the notice.

37. Moreover, although a reduction in height would lessen the effect on outlook, the outbuilding would retain a significant height and is likely to remain visible above the height of the shared boundary. When taken together with its sizeable footprint, the resultant scale and bulk of the outbuilding would remain an inharmonious addition to the detriment of the character and appearance of the original house and the spaciousness of rear gardens. It would continue to be read as an overbearing addition that dominates views from windows within the rear elevation of neighbouring dwellings and their rear gardens.
38. Notwithstanding that I have found the alternative scheme does not form part of the matters, the revised scheme is not acceptable in planning terms and is contrary to the development plan, and therefore, even if I had found the revised scheme formed part of the matters stated in the breach of planning control, it would not be acceptable.

Planning balance and conclusion

39. The host dwelling is currently occupied by a number of adults and taken together with its size there is stated to be a lack of space for socialising and dining together. The appellant explains that this causes tension, anxiety and stress between family members which in turn has resulted in the appellant feeling unwell and having poor sleep. It is suggested that there is an absence of viable space within the host dwelling to work from home and to concentrate without interruption or distraction. The outbuilding offers additional space for use as a gym/keep fit area, an art studio and an area for studying and research. Consequently, the appeal schemes have provided an improvement to the conditions in which people, live, work and take leisure, which accords with the aims of the Framework in this regard.
40. I have concluded that the outbuilding has caused harm to the character and appearance of the host property and the surrounding area and that the development has materially compromised the living conditions of neighbouring occupiers by reason of an unduly harmful effect on the outlook of neighbouring occupiers at 11,12 and 12A Fordham Close which materially compromises their living conditions. These are matters to which I attribute significant weight.
41. The appeal schemes conflict with the development plan as a whole and the material considerations weighing in favour of the schemes are of insufficient weight, individually and cumulatively, to justify decisions otherwise than in accordance with the development plan.

Ground (f)

42. An appeal under ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
43. Section 173(4) of the Act sets out the purposes of a notice are (a) remedying the breach by making any development comply with the terms of any planning permission, by discontinuing any use of the land or by restoring the land to its condition before the breach took place or (b) remedying any injury to amenity which has been caused by the breach. It is clear from the wording of the notice

and the Council have confirmed that its purpose is to remedy the breach of planning control.

44. The appellant suggests that, in view of the boundary treatment and associated features, together with the separating distances between the outbuilding and the neighbouring built forms, the demolition of the outbuilding would be unjustified and excessive. However, these relate to the planning merits of the outbuilding. As set out under ground (a) above, I have found the outbuilding is harmful and should not be granted planning permission.
45. Under ground (f), I am obliged to give consideration to whether there is any obvious alternative, or lesser step, which would achieve the purposes of the enforcement notice with less cost and disruption rather than removal of the entire appeal scheme. The appellant has suggested reducing the height of the outbuilding such that it would not exceed a maximum height of 2.6 metres and an amended plan (drawing number 1869-01 Rev B) has been provided to show the proposed scheme. However, as set out above, I have concluded that the proposed scheme does not form part of the matters specified in the notice.
46. The host dwelling comprises a maisonette. While dwellinghouses benefit from permitted development rights under the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)(the GPDO), for the purposes of Part 1, 'dwellinghouse' does not include a building containing one or more flats, or a flat contained within such a building. As such, the property does not benefit from permitted development rights under Class E, Part 1 of Schedule 2 of the GPDO. There is no obvious alternative or lesser step which would achieve the purposes of the enforcement notice with less cost and disruption. Allowing the building to remain would not remedy the breach.
47. Consequently, I find that there are no lesser steps which would achieve the purposes of the enforcement notice with less cost and disruption and so the appeal under ground (f) must fail.

Ground (g)

48. An appeal under ground (g) is made on the basis that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.
49. The enforcement notice specifies a period of three months for compliance with the steps contained therein. Given that the existing outbuilding provides a space that the appellant and their partner use to work from home, additional time is required to find alternative workspace and to identify and appoint a contractor(s), to undertake the work and to raise the necessary finance. The appellant has suggested that an alternative period of 12 months would be required.
50. The appellant works from home an average of 1.5 days per week and their partner works 2 to 3 days per week from home. There is limited information regarding the nature of the partner's employment and whilst the appellant is stated to be an art teacher for which the outbuilding provides an opportunity to teach other art students, limited evidence has been provided to show that frequency and duration of any teaching that is undertaken. Although I have had regard to the host dwelling being limited in size, space within the host dwelling is likely to be capable of providing a workspace as an interim measure whilst the appellant sources an

alternative workspace. Since the appellant and partner work from home for only a limited part of the week, this implies that there are other days of the week where they are able to work from an alternative location. Little justification has been provided to show the 3 month period for compliance is unreasonable.

51. Nevertheless, it is likely that the works would need to be undertaken by a builder. I consider that a period of six months would be a more reasonable period of time as this would give the appellant sufficient time to appoint a competent builder/contractor/electrician and for the work to be undertaken. Utilising the services of a builder to carry out the necessary works would incur a financial cost to the appellant, however, little information has been provided to explain why the appellant would be unable to fund the works within the stated period. In any event, increasing the period for compliance to six months would provide the appellant within some additional time to raise the necessary finance for the works.
52. I therefore consider that an extension of the compliance period to six months would allow sufficient time to engage the appropriate person(s) and safely carry out the demolition and remediation works. In balancing the public and private interests bound up in this case, I find that the period of three months given for compliance with the notice falls short of what is reasonable. The practicalities of arranging and carrying out works and removing all constituent materials resulting from the works, lead me to conclude that a period of six months would be reasonable and proportionate in the case circumstances.
53. Consequently, I consider six months is a more reasonable and proportionate compliance period and I shall vary the notice accordingly.

Appeal A Conclusion

54. In respect of Appeal A, for the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall therefore vary the enforcement notice prior to upholding it. The appeal under ground (g) succeeds to that extent. I conclude that the appeal under ground (a) and ground (f) shall not succeed.
55. I shall uphold the enforcement notice, as varied, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

Appeal B Conclusion

56. In respect of Appeal B, for the reasons given above, the appeal is dismissed.

E Brownless

INSPECTOR