



Appeal Decision

Site visit made on 3 September 2025

by **E Griffin LLB Hons**

an Inspector appointed by the Secretary of State

Decision date: 17th September 2025

Appeal Ref: APP/Q5300/C/24/3336487

23 Tyberry Road, Enfield EN3 5AB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Lorraine Green against an enforcement notice issued by the Council of the London Borough of Enfield.
 - The notice was issued on 8 December 2023.
 - The breach of planning control as alleged in the notice is 'without planning permission, an unauthorised balcony has been erected on the roof of an existing single storey rear extension (outlined in blue on the plan for identification purposes only)'
 - The requirements of the notice are:
 1. Cease the use of the flat roof as balcony for recreational purposes.
 2. Remove the balcony wooden floor and the railings (outlined in blue on the plan for identification purposes)
 3. Reinstate the roof of the existing single storey rear extension to how it was before erecting the balcony.
 4. Remove all resulting waste materials from the Premises.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) 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. It is directed that the enforcement notice is corrected and varied by:
 - i) Deleting the allegation in full and replacing it with 'without planning permission, the erection of an unauthorised balcony with railings on the roof of an existing single storey rear extension'
 - ii) Deleting the first requirement in full.
 - iii) Deleting the words "(outlined in blue on the plan for identification purposes)" from the second requirement.
 - iv) Substituting the plan annexed to this decision for the plan attached to the enforcement notice.
2. Subject to the correction and variations, 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.

The Notice

3. It is the duty of the Inspector to put the notice in order irrespective of the grounds of appeal. The allegation relates to operational development namely the erection of an unauthorised balcony on the roof of an existing single storey rear extension. The requirements include removing the floor of the balcony and the railings. The requirements should flow from the allegation.
4. Including the railings in the allegation provides clarity and removes the need to identify the balcony by reference to blue colouring on the enforcement notice plan as the railings define the extent of the development. I will amend the allegation to 'Without planning permission, the erection of an unauthorised balcony with railings on the roof of an existing single storey rear extension' and will substitute the plan with an amended plan without the blue edging. I will also remove the reference to the plan in the second requirement. These amendments do not cause injustice to any party when they are providing clarity and are not more onerous.
5. The first requirement refers to ceasing the use of the balcony for recreational purposes. The notice cannot require a use to cease when the allegation relates to operational development only and does not allege a material change of use. In the event of the notice being upheld, the removal of the balcony and railings would, in any event, remedy the breach. I will delete the first requirement in full.

The appeal under ground (a) and the Deemed Planning Application (DPA)

Main Issues

6. The main issues are (i) the effect of the development upon the character and appearance of the surrounding area and (ii) the effect of the development upon the living conditions of neighbouring occupiers with particular regard to noise, overlooking, and loss of privacy.

Reasons

Character and Appearance

7. The appeal property is a two storey semi-detached dwelling located in a residential area of dwellings of a similar character. The property is located on the corner of Tyberry Road and Ashdown Road. At the rear, the appeal property has been extended with a single storey extension. There is a conservatory attached to the rear extension and a further outbuilding beyond the conservatory. There is a small shed next to the conservatory as well as an outbuilding at the end of the garden which extends across the width of the garden. There was also a swimming pool in the garden at the time of my site visit.
8. The development consists of a balcony with a wooden floor and railings on top of the single storey extension. The appellant has referred to the measurements taken by the Council being inaccurate. However, no measurements are being relied upon by the Council for this enforcement appeal and the railings mark the extent of the balcony. The balcony does not extend to the shared boundary with the adjoining semi-detached property at No 21 but does occupy the bulk of the roof of the extension. The railings of the balcony are made up of wooden horizontal slats with posts and are similar in appearance to a garden fence.

9. At the rear, surrounding properties do have extensions of various sizes and designs but they do not have similar structures to the development on top of extensions. Having garden fence style railings on top of an extension next to a conservatory is incongruous and out of keeping with both the original dwelling house and the character and appearance of the surrounding area. Due to the corner location of the appeal property, there are also views of the side railings of the balcony at the front when standing on Ashdown Road.
10. For the reasons given above, I do find that the design, scale and siting of the development is out of keeping with the character and appearance of the surrounding area. It is therefore contrary to Policy D3 of the London Plan and Policy CP30 of the Enfield Core Strategy which collectively refer to enhancing and having regard to local context. It is also in conflict with Policy DMD6 of the Enfield Development Management Document (DMD) which refers to development being of an appropriate scale and form for its setting. It is also contrary to Policy DMD37 of the DMD which refers to high quality design which is appropriate to its context.

Privacy and overlooking

11. The height and projection of the balcony means that there are views of the garden of the adjoining semi-detached property at No 21 Tyberry Road and the adjoining garden at 24 Ashdown Road. The whole of the garden of No 21 is visible from the balcony together with the bulk of the garden of No 24.
12. Whilst there is an element of overlooking in many residential areas, views from rear windows of the appeal property are not comparable to views from an open elevated location on a rear projection. The location of the balcony also results in views looking back towards the upper windows of No 21 which are likely to be habitable rooms. The development results in overlooking and loss of privacy due to its prominent location, design and height. The appellant has referred to having private fencing to prevent any overlooking concerns but no further details are provided in terms of height, design or appearance. Seeking to address privacy concerns with more development is also difficult when I have found that the existing balcony railings harm the character and appearance of the area.

Noise and disturbance

13. Creating the balcony has provided outside space for use by occupiers of the appeal property including family and visitors. I do not consider that the development being set back slightly from the shared boundary makes any significant difference when assessing noise. The space is likely to be used more frequently in summer months with longer evenings when neighbouring occupiers will have windows open for air circulation. The upper windows of the adjoining semi-detached property are in close proximity to the balcony and are very likely to be habitable rooms even if they are not bedrooms.
14. Whilst the appellant does not intend to create any noise, the proximity of the development to neighbouring properties particularly No 21 does mean that creating a balcony introduces a new noise source on the roof of an extension. I have no evidence of how the appellant proposes to ensure that noise levels do not impact the living conditions of nearby occupiers. I am also mindful that a grant of permanent planning permission would run with the land, and the development would remain irrespective of any change of occupier. I cannot therefore be

satisfied on the evidence before me that the development does not harm the living conditions of neighbouring occupiers with regard to noise.

15. For the reasons given, I do find that the development harms the living conditions of neighbouring occupiers with regard to noise, overlooking and loss of privacy. It is therefore contrary to Policy CP30 of the Core Strategy refers to development having special regard to its context. It is also in conflict with Policy DMD37 which refers to refusing development that is not suitable for its intended function and which fails to have appropriate regard for its surroundings will be refused. Policy DMD8 does refer to preserving amenity in terms of privacy and outlook albeit in the context of new residential development.

Other considerations

16. The appellant has referred to personal circumstances including those of her family including medical conditions. The appellant refers to the need for relaxation space but it is not clear why extra space is needed on top of the rear extension, when the appellant has a garden together with a number of outbuildings in that garden which are likely to serve a similar purpose. Whilst the family derives personal benefits from the development, those benefits have to be balanced against the harm that I have found. I have also to consider that the grant of permanent planning permission would run with the land. The development would still remain after the appellant and her family have ceased to be in occupation. I do not find that the personal circumstances relied upon by the appellant overcome the harm that I have identified.

Conclusion on ground (a)

17. I have found that the development harms the character and appearance of the area. I have also found that the development harms the living conditions of neighbouring occupiers with regard to noise, overlooking and loss of privacy. The development is therefore contrary to the development plan as a whole. There are no material considerations relied upon by the appellant which lead me to conclude that a decision should be made other than in accordance with the development plan. The appeal under ground (a) is dismissed.

The appeal under ground (f)

18. Section 174(2)(f) of the Act states that an appeal may be made on the ground that the steps required by the notice to be taken, 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.
19. An appeal under ground (f) is limited to consideration of whether the requirements of the notice exceed what is necessary having regard to the purpose of the notice. I have already addressed the reasons why the first requirement is to be deleted from the notice. The amended requirements include the removal the balcony and railings. The purpose of the notice is therefore to remedy the breach. The appellant has not indicated why the requirements are excessive and they are not excessive when the purpose of the notice is to remedy the breach. The appeal under ground (f) therefore fails.

Conclusion

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

E Griffin

INSPECTOR