



Appeal Decision

by Peter Willows BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 October 2025

Appeal Ref: APP/X5210/C/24/3349567

Flat 5, 9-11 Belsize Grove, London NW3 4UU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr & Mrs Michael Szalontay against an enforcement notice issued by the Council of the London Borough of Camden.
 - The notice was issued on 23 May 2024.
 - The breach of planning control as alleged in the notice is *Without planning permission, the erection of a wooden structure in the rear garden.*
 - The requirements of the notice are:
 1. Completely remove the wooden structure, including the frame and concrete slab with tree protection measures in place for adjacent trees in accordance with British Standard 5837:2012.
 2. Remove associated debris from the site.
 3. Make good any damage caused.
 - The period for compliance with the requirements is 1 month.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - The deletion of the word 'red' at section 2 of the notice (the land to which the notice relates) and its replacement with the word 'black';
 - the deletion of 1 month and its replacement with 3 months as the period for compliance.
2. Subject to those changes, the enforcement notice is upheld.

Preliminary Matters

3. The grounds of appeal initially included ground (a) (that planning permission ought to be granted). However, ground (a) is barred in this case under the provisions of s174(2A) of the 1990 Act because of a recent planning application for a related development. This was communicated to the appeal parties by letters dated 20 December 2024.
4. Given the nature of the disputed matters and the grounds of appeal, I did not consider a site visit to be necessary in this case. I sought the views of both main parties prior to deciding not to visit the site.
5. The enforcement notice refers to the property being 'outlined in red' on the plan attached to it. In fact, the plan shows the property outlined in black. I can correct this minor error without causing injustice to any party.

Ground (f)

6. Section 173 of the Act indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. The first (s173(4)(a)) is to remedy the breach of planning control which has occurred. The second (s173(4)(b)) is to remedy any injury to amenity which has been caused by the breach. In this case, the allegation concerns the construction of a building and the notice requires its removal. This is consistent with remedying the breach of planning control in accordance with s174(4)(a). Consequently, I do not regard the requirement as excessive.
7. I understand that a planning application for a building of a reduced scale has been submitted to the Council. However, the application has not been determined. Since I do not know what decision the Council will make, I cannot amend the requirements of the notice to reflect that proposal. There is no appeal on ground (a) and it is not my role in this appeal to judge the relative merits of the building enforced against and the revised scheme in advance of the Council's decision on the matter. Consequently, the revised proposal does not provide a reason for altering the requirements of the notice.
8. For these reasons, the appeal on ground (f) fails.

Ground (g)

9. The notice specifies a period of 1 month for compliance. That appears to me to be an adequate period in which to carry out the required works relating to this simple structure. However, there is a planning application for a revised scheme currently with the Council and I accept that there is merit in allowing some additional time to enable any negotiations to be completed and the application determined prior to the requirements of the notice taking effect. Should a revised scheme be approved, it would be open to the Council to consider varying the requirements of the notice to reflect that, using its powers under s173A(1)(b) of the 1990 Act.
10. On the other hand, it is not desirable for too long a period to be allowed before the breach of planning control is addressed. I do not know when the planning application will be decided. I cannot see any specific justification for the 5 months suggested by the appellant and regard it as excessive. In my view, 3 months would strike an appropriate balance, and I will vary the notice accordingly. To that extent, the appeal succeeds on ground (g).

Peter Willows

INSPECTOR