



Appeal Decision

Site visit made on 10 November 2025

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th November 2025

Appeal Ref: APP/T5150/C/23/3335224

28 Coniston Gardens, London NW9 0BD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Jamaluddin Mohammadi against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice was issued on 6 November 2023.
 - The breach of planning control as alleged in the notice is Without planning permission, the erection of a raised platform with a timber and plastic rear canopy extension onto an existing extension of the premises, and the raising of the land and hard surfacing to the rear of the premises. ("the unauthorised development").
 - The requirements of the notice are:
STEP 1 Remove the unauthorised hard surface to the rear of the premises, lower the land levels back to that which existed prior to the unauthorised works taking place, ensuring that the land levels are consistent with those of the neighbouring property boundaries.
STEP 2 Remove all debris, materials and items, arising from the removal works as stated in Step 1, from the premises.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

The Appeal on Ground (c)

2. Ground (c) arises where an appellant seeks to argue that the matters alleged by the enforcement notice do not constitute a breach of planning control. The onus of proof lies with the appellant, the relevant test of the evidence being the balance of probability.
3. I have considered whether the timber and plastic rear canopy complies with Article 3, Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). However, Article 3, Schedule 2, Part 1, A.1 (f)(i) of the GPDO requires that the canopy should not extend beyond the rear wall of an original semi-detached dwellinghouse by more than 3 metres. In combination with the existing single storey rear extension the canopy projects more than 3m from the rear wall of the original dwellinghouse. Therefore, the canopy does not accord to the stipulations of Schedule 2, Part 1 Class A of the GPDO.
4. In relation to the raised patio element to the rear of the rear extension, Part 1, Class A paragraph A.1(k)(i) restricts the construction or provision of a verandah, balcony

or raised platform. The Government's Technical Guidance¹ explains that a raised platform is "any platform that has a height of more than 0.3 metres." The raised patio at the appeal site, is well in excess of 0.3m above the ground level. Therefore, the raised patio to the rear of the rear extension does not accord to the stipulations of Schedule 2 Part 1, Class A of the GPDO.

5. With regard to the raising of the land and hard surfacing to the rear of the premises it is clear that the rear garden land has been raised from the former natural ground floor level by with the covering of the rear garden in concrete. Under s55(1) of the 1990 Act, 'development' comprises 'two limbs':
 - 1) The carrying out of building, engineering, mining, or other operations in, on, over or under land (operational development);
 - 2) The making of any material change in the use of any buildings or other land.
6. It is clear that the allegation is referring to operational development, and that the raising of land relates to an 'engineering operation.' 'Operational development' comprises activities which result in some physical alteration to land which has some degree of permanence. Engineering operations involve works with some element of pre-planning, which would generally (but not necessarily) be supervised by a person with engineering knowledge.
7. Based on my site inspection, as a matter of fact and degree, given the extent of the works undertaken across the rear garden, which facilitates the construction of fencing and the patio above, I consider, as a matter fact and degree, that it amounts to an engineering operation for which planning permission is required.
8. The appellant states that the raising of the land constitutes permitted development. However, they have not cited which section of the GPDO they rely on. I note that Part 1, Class F of the GPDO provides permitted development rights within the curtilage of a house for (a) the provision of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such or (b) the replacement in whole or in part of such a surface. However, Class F of the GPDO does not permit the raising of the land above the former levels, and I note that the appellant has not demonstrated by how much the land levels have increased. Consequently, the appellant has not shown that the works are actually permitted by the GPDO, or that any other planning permission has been granted.
9. The appellant states that the property is on hill and that privacy of 30 Coniston Gardens is not affected. However, these are planning merit arguments, which are usually considered under a ground (a) appeal, 'that planning should be granted for the matters alleged.' Since the ground (a) appeal has lapsed, these arguments can play no part in my decision on this appeal on ground (c).
10. I therefore find that as a matter of fact and degree and on the balance of probabilities, the scale of works undertaken in raising of the land levels amounts to an engineering operation for the purposes of s55 of the 1990 Act. Planning permission is required for all the works alleged in the Notice. There is none in place. Therefore, based on all the evidence before me, there has been a breach of planning control, and the appellant has not discharged the onus to demonstrate otherwise.

¹ The Government's permitted development rights for householders: technical guidance, 10 September 2019.

11. Accordingly, the appeal fails on ground (c).

Conclusion

12. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

R Satheesan

INSPECTOR