



Appeal Decision

Site visit made on 11 November 2025

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2025

Appeal Ref: APP/T5150/C/24/3337261

69 Paxford Road, Wembley HA0 3RJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended.
- The appeal is made by Mr Nadeem Junaid Butt against an enforcement notice issued by the Council of the London Borough of Brent.
- The enforcement notice was issued on 18 December 2023.
- The breach of planning control as alleged in the notice is failure to comply with conditions imposed on a planning permission ref 20/3412 granted on 13 January 2021.
- The development to which the permission relates is described as the *demolition of existing detached garage, erection of two storey side and part first floor rear extension, single storey rear extensions with ramp including roof tile replacements to the main roof of the dwellinghouse.*
- The conditions in question are numbers 2 and 3 which state:
Condition 2: The development hereby permitted shall be carried out in material accordance with the following approved drawing(s) and/or document(s): 0191/100, 110, 120, 210, 220, 230, 300, 310, 320, 330, 400, 410, 420, 430 (all Rev P1) 200 Rev P2
Condition 3: The materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing building.
- The notice alleges that the conditions have not been complied with in that *the front garden has not been built in accordance with the approved drawings and that the materials used for the door adjacent to the garage door is not of similar appearance to those used in the construction of the exterior of the existing building.*
- The requirements of the notice are:
STEP 1 Alter the front boundary treatment and associated hard and soft landscaping to the premises as shown in PLAN A attached to this notice.
STEP 2 Remove unauthorised door adjacent to the garage door and replace it with a Conservation Area style timber door as shown in the Sudbury Court Design guide.
STEP 3 Remove all items, debris and materials, arising from compliance with STEPS 1 and 2.
- The period for compliance with the requirements is: *3 months after this notice takes effect*
- The appeal is proceeding on the grounds set out in section 174(2)(c) and (f) of the 1990 Act (as amended).

Formal Decision

1. It is directed that the enforcement notice is corrected by:
 - At Schedule 2 delete all references to Condition 3 of planning permission 20/3412 such that the alleged breach of planning control would read as follows:

"The breach of Condition 2 of planning permission reference 20/3412 granted by the London Borough of Brent on 13th January 2021 for the "Demolition of existing detached garage, erection of two storey side and part first floor rear extension, single storey rear extensions with ramp including roof tile replacements to the main roof of the dwellinghouse."

Condition 2 states:

"The development hereby permitted shall be carried out in material accordance with the following approved drawing(s) and/or document(s):

0191/100, 110, 120, 210, 220, 230, 300, 310, 320, 330, 400, 410, 420, 430 (all Rev P1) 200 Rev P2

Reason: For the avoidance of doubt and in the interests of proper planning."

There has been a breach of Condition 2, because the front garden has not been built in accordance with the approved drawings of planning permission 20/3412, contrary to the interests of proper planning."

- At Schedule 4 under the requirements of the notice delete STEP 2 and renumber the remaining steps to read as follows:

"STEP 1 - Alter the front boundary treatment and associated hard and soft landscaping to the premises as shown in PLAN A attached to this notice.

STEP 2 - Remove all items, debris and materials, arising from compliance with STEP 1 above."

2. Subject to the corrections, the appeal is dismissed, and the enforcement notice is upheld.

Preliminary Matters

3. Representations have been made by both parties in respect to the character and appearance of the front boundary and the materiality of the pedestrian door between the porch and the garage door at the site. As the appellant has not appealed on ground (a), nor paid the relevant fee, there is not a deemed planning application for me to consider. Therefore, the planning merits of the case are not before me in this appeal.

Appeal under ground (c)

4. An appeal under ground (c) is made on the basis that the matters stated in the notice (if they occurred) do not constitute a breach of planning control. In a legal ground of appeal, the onus of proof is firmly on the appellant to make their case, on the balance of probabilities¹.
5. Section 171A(1)(b) of the 1990 Act states failing to comply with any condition or limitation subject to which planning permission has been granted constitutes a breach of planning control. The Council allege that there has been a breach of conditions 2 and 3 of planning permission 20/3412, specifically in that the front garden has not been built in accordance with the approved drawings (condition 2), and the materials of the pedestrian door next to the garage door is not of similar appearance to those used in the construction of the exterior of the existing building (condition 3).
6. Plan A attached to the enforcement notice is the approved plan 0191/200 Rev P2 which provides details of the proposed ground floor treatment. Plan A shows the retention of the existing front boundary wall, the retention of the existing driveway and the provision of an L-shaped hedge to the front of the property. From the

¹ Thrasyvoulou v SSE & Hackney LBC (No 1) [1984] JPL 732

evidence before me, the front boundary wall was removed and replaced with a smaller wall during construction, providing additional access and car parking on the driveway. At the time of my site visit, the smaller wall remained in situ, and the hedging has not been planted in accordance with the details contained in Plan A.

7. The approved landscaping and front boundary treatment has not been undertaken in accordance with the approved details as shown in Plan A, as a matter of fact. Subsequently, the matters stated in the notice have occurred, and I conclude that the appellant has not shown on the balance of probabilities that they do not constitute a breach of planning control in regard to condition 2.
8. From the details before me, prior to the commencement of works, the exterior of the existing building consisted of a mixture of materials including a block paved drive, painted brickwork, a white metal garage door, timber pedestrian door, rendering, hung tiles and painted brick quoins with a pan tiled roof. Both the ground and upper floor exhibited white uPVC window frames with the ground floor also providing white uPVC entrance doors. Given that the door subject to this appeal is also white uPVC, it would be of a similar appearance to the external materials of the existing structure. Similarly, whilst not in accordance with condition 2, the low level brick wall and block paved driveway would also be similar materials to the existing, thus there is no breach of condition 3.
9. Whilst I appreciate that the appeal site is located within the Sudbury Court conservation area, which is also subject to an Article 4 Directive removing certain 'permitted development' rights, condition 3 is explicit in its requirements that the exterior materials must be of a similar appearance to those of the existing building. There is no requirement in the approved condition that the existing uPVC door needs to be a timber conservation area style door as shown in the Sudbury Court Design guide, as stated in the notice. Thus, I consider that the development is in accordance with this condition and I shall correct the notice insofar as it relates to condition 3, to ensure that the breach of planning control relates only to the non-compliance with the approved details (condition 2). No injustice would arise to either party with this approach.

Conclusion on ground (c)

10. I have found there would be a breach in planning control in relation to condition 2 as the development has not been completed in accordance with the approved details, specifically the external treatment to the front of the property as shown on the approved plan 0191/200 Rev P2 (Plan A). I will uphold this part of the notice. However, I have concluded that there is no breach of planning control in respect to the requirements of condition 3 as the materials used in the exterior work are of a similar appearance to the existing building. Therefore, I shall correct the enforcement notice insofar as it relates to condition 3.
11. I will uphold the notice with corrections, and as a result the appeal under ground (c) partially succeeds.

Appeal under ground (f)

12. An appeal on ground (f) is made on the basis that the requirements of the notice exceed what is necessary. Section 173(4) of the 1990 Act sets out the purposes which an enforcement notice may seek to achieve. They are either (a) remedying of the breach of planning control or (b) remedying any injury to amenity which has

been caused by the breach. The corrected notice requires the development to be carried out in accordance with the approved details. This is as opposed to requiring the details to be modified by, for example, reducing them in size, changing the material or amending species. Therefore, the purpose of the notice must be to remedy the breach.

13. The appellant contends that the existing arrangement is appropriate at the appeal site and would not result in a harm to the character and appearance of the local area or the Sudbury Court conservation area. However, there is no scope for me to consider planning merits, as the appellant has not made a ground (a) appeal. Consequently, there are no lesser steps that could be taken here, as the current development does not accord with the approved plans, thus the breach of planning control would not be remedied and would not achieve the purpose of the notice. The steps required by the notice to be taken, do not exceed what is necessary to remedy any breach of planning control.
14. Therefore, the ground (f) appeal fails.

Conclusion

15. For the reasons given above I conclude that the appeal succeeds in part only, and there is no breach of condition 3 insofar as it relates to materials and specifically the uPVC pedestrian door, but otherwise I will uphold the notice with corrections.

Robert Naylor

INSPECTOR