



Appeal Decision

Site visits made on 25 November 2025 and 9 December 2025

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2025

Appeal Ref: APP/N5090/C/23/3332569

72 Brent Park Road, London NW4 3HR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Peter Enzenwa against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice was issued on 25 September 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission the material change of use of the rear garden outbuilding to self-contained residential accommodation.
 - The requirements of the notice are:
 - 1 Cease the use of the rear garden outbuilding as self-contained residential dwelling;
 - 2 Permanently remove all cooking facilities from the outbuilding including the kitchen units, sinks, cookers and food preparation areas;
 - 3 Remove all associated waste and debris, resulting from compliance with the above step, from the premises.
 - The period for compliance with the requirements is 5 months.
 - The appeal is proceeding on the ground set out in section 174(2)(b) 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.

Preliminary Matters

2. I was unable to undertake an internal inspection of the appeal site as the appellant failed to attend and provide internal access to the accompanied site visits, with the Council representative, on both 25 November 2025 and 9 December 2025. Accordingly, this appeal will be determined on the basis of the evidence before me, which is considered appropriate given that there is no appeal on ground (a), and I am not considering the planning merits of the development. Both parties were subsequently written to explaining this, and therefore I am satisfied that neither party would be prejudiced by this.

The appeal on Ground (b)

3. To succeed on this ground, the onus is upon the appellant to demonstrate on the balance of probabilities that the allegation has not occurred as a matter of fact.
4. Whilst there is no definition of a dwellinghouse within the Act, in one notable High Court judgement it was considered that the distinctive characteristic of a dwellinghouse is its ability to afford to those who use it the facilities required for day-to-day private domestic existence.

5. The main property at 72 Brent Park Road appears to be in use as two separate self-contained flats (one flat on each floor). The appellant states that there is no material change of use of the rear garden outbuilding to a self-contained residential accommodation and that it is simply used as a gym solely for the ground floor flat at No. 72.
6. However, the Council's evidence contradicts this. The Council received a complaint in June 2023 stating that the outbuilding was being used as a self-contained dwellinghouse. Following a power of entry letter sent on 7 July 2023, an Officer site visit was carried out on 12 July 2023. However, the owner did not attend and so internal access was not provided to the Council Officer. Following this, the Council served a Planning Contravention Notice (PCN) on 13 July 2023 and sent a letter inviting a retrospective planning application and also a final warning pre-enforcement notice on 17 July 2023. Following all of the above, the Enforcement Notice, the subject of this appeal, was subsequently served on 26 September 2023.
7. In addition, the Council contacted the owner of the site again, during the course of this appeal, and carried out a further site visit on 27 February 2024. During the site visit, the Enforcement Officer observed what appeared to be living quarters of some form within the building owing to the presence of a fully fitted kitchen and bathroom within the building. Indeed, Officers also noted the presence of lock boxes at the front of the main property and there was a separate and independent side access to the outbuilding.
8. Whilst the appellant contends that the subject appeal building was converted into a gym in accordance with the guidelines for outbuildings, the Council photographs show little gym equipment stored within the building comprising an exercise bike, a mat and kettle bell weights. Indeed, it is unclear why such limited equipment justifies the overall size of the outbuilding or explains the presence of a fully fitted kitchen with a sink, a washing machine, a hot plate with extractor fan above, a dishwasher, kitchen cupboards and worktop units.
9. Furthermore, the building contains a separate shower room with shower, toilet and wash basin. Such facilities would usually exist within the main property, and no explanation has been advanced why it is necessary to keep a separate kitchen and shower room within the outbuilding, as well as the ground floor flat.
10. I also noted that there is separate, independent access to the outbuilding from a side gate, with a keypad lock, for entrance at the rear of the appeal site, close to the outbuilding. Furthermore, there is outside space, albeit shared, which is available for occupiers to use. The building has the distinctive characteristics of a dwellinghouse, that being the ability to afford to those who use them, the facilities required for day-to-day private domestic existence. Based on the above, as a matter of fact and degree, I consider that it is less than probable that the building was only being used as a gym used in connection with the ground floor flat.
11. The building appears to be more than an ancillary gym to the ground floor flat. Indeed, given the design and layout of the building, the facilities provided within the building and given that independent and separate access is provided to the side of the house, with a keypad on the gate for access, it would constitute a self-contained residential accommodation within a separate and distinct planning unit.

12. Whilst the appellant contends that the works carried out meet the Council's requirements in terms of its size and overall height, the Notice is not seeking the removal of the outbuilding itself, but that the use as a self-contained residential accommodation ceases, together with the removal of all items inside the building which facilitate this unauthorised use.
13. Therefore, based upon all the evidence before me, and on the balance of probabilities, the alleged breach of planning control occurred at the time the notice was issued.
14. Accordingly, the appeal on ground (b) must fail.

Conclusion

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

R Satheesan

INSPECTOR