



Appeal Decisions

Site visit made on 5 November 2025

by Richard S Jones BA(Hons), BTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2025

Appeal A Ref: APP/N5090/C/24/3349499

Land at Rising Sun, 137 Marsh Lane, London, NW7 4EY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Matteo Delnevo (The Rising Sun) against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice was issued on 4 July 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of an outbuilding and surrounding fencing (as approximately edged yellow in attached plan)
 - The requirements of the notice are to:
 1. Demolish the outbuilding and surrounding fencing (as approximately edged yellow in attached plan)
 2. Permanently remove from the property all constituent materials resulting from the works in 1. above.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 (as amended).
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Appeal B Ref: APP/N5090/W/24/3349246

137 Marsh Lane, Mill Hill, Barnet, London, NW7 4EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Delnevo (The Rising Sun) against the decision of the Council of the London Borough of Barnet.
 - The application ref is 24/1595/RCU.
 - The development proposed is erection of an outbuilding to store goods for the business - retrospective
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Decisions

Appeal A

1. It is directed that the enforcement notice is varied by the deletion of three months and the substitution with eight months as the period for compliance.
2. Subject to the variation, the enforcement notice is upheld.

Appeal B

3. The appeal is dismissed.

Appeal A

The Appeal on Ground (g)

4. The ground (g) appeal is that the three months given to comply with the notice is too short to allow sufficient time to raise funds to finance the required works, time to identify and appoint a contractor, and to carry out the works. The appellant

argues that a period of twelve months would strike a more practical, reasonable and proportionate balance.

5. However, no financial evidence is provided to show that the removal of the building would be particularly costly and would likely cause difficulties to the appellant. Given its fairly simple construction, its demolition is likely to be relatively quick and straight forward. In that regard, I see no reason why the period for compliance would cause undue difficulties.
6. The appellant further states that in view of the absence of a statutory end date for the determination of the appeal, it is impractical and unreasonable to programme or schedule a time slot for a contractor to carry out the necessary works. In any event, there should be no expectation on the appellant to do that because for the duration of the proceedings he is entitled to assume success on any ground in an appeal under s174 of the 1990 Act.
7. Nevertheless, the building has evidently been erected for the purpose of providing storage space in connection with the Rising Sun restaurant and bar, and I saw at the time of my site visit that it was fully stocked. It is therefore likely to be an important facility for the business, and its loss would be disruptive. However, the twelve months sought is excessive and tantamount to the timescales of a temporary planning permission.
8. A period of eight months would strike a reasonable and proportionate balance between any difficulties and disruption the appellant may encounter, and the public interest in this case. It would also allow the appellant sufficient time to prepare and submit a planning application for an alternative building, should he wish to do so.
9. The appeal on ground (g) succeeds to that extent.

Appeal B

Preliminary Matters

10. The Council has confirmed that the Barnet Local Plan 2012, referred to in its reason for refusal, has been replaced by the Barnet Local Plan 2024 (LP). As my decision must be made against the current development plan, I offered the parties opportunity to comment on the relevant replacement policies. No submissions have been made by either party.
11. Moreover, since the appeal was submitted, a revised version of the National Planning Policy Framework (the Framework) has been published (December 2024) and this is a material consideration which should be taken into account from the date of its publication. I therefore invited the parties to consider whether the revised Framework has relevance to the cases made. Again, no submissions have been made.

Main Issues

12. The main issues are:
 - whether the development amounts to inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies;
 - the effect on the openness of the Green Belt;

- the effect on the character and appearance of the area, including whether the development preserves or enhances the character or appearance of the Mill Hill Conservation Area, and the effect on the setting of any listed building; and
- if the development is inappropriate, whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development.

Reasons

Whether the outbuilding amounts to inappropriate development and its effect on openness

13. London Plan Policy G2 seeks to protect the Green Belt from inappropriate development, whilst LP Policy ECC06 states that proposals for development in the Green Belt will be considered in accordance with the Framework.
14. Paragraph 153 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Development in the Green Belt is inappropriate unless one of the exceptions in paragraphs 154 and 155 apply.
15. The appellant refers to exception 154(c), which is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
16. In the case of *Warwick DC*¹ 2145 (Admin) the judge concluded that exception “.... *is not to be interpreted as being confined to physically attached structures but that an extension for the purposes of that provision can include structures which are physically detached from the building of which they are an extension.*” In other words, it would be unlawful to find that an outbuilding should not be treated as an “extension” for the purposes of paragraph 154(c) solely on the basis that it was not linked to another building. Whether a detached structure would amount to an extension of the existing building is a matter of fact and degree.
17. As discussed below, the original building in this case is a grade II listed building which has been extended over time with a number of attached/linked buildings. Together they broadly occupy the front half of the site whereas the outbuilding is positioned in the rear corner. There is a small, enclosed beer garden between the outbuilding and the main part of the original building, as well as a small marquee. The height and alignment of the enclosure to the beer garden also serve to physically sever the two parts.
18. The somewhat rudimentary timber outbuilding is also partly screened across its frontage with attached timber fencing, matching that of the rear boundary and perimeter to the adjacent beer garden. The functional outbuilding is also painted in a matching black colour, evidently in an attempt to integrate with those elements, rather than being perceived as an extension to the highly contrasting and attractive red brick and clay tile original building.
19. Those characteristics logically take me to conclude, in the particular circumstances of this case, that it would not be reasonable to find that the outbuilding amounts to

¹ *Warwick DC v SSLUHC, Mr J Storer & Mrs A Lowe* [2022] EWHC 2145 (Admin)

an extension to the original building, as a matter of fact and degree. Exception 154(c) does not therefore apply.

20. Exception 154(g) relates to limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt. Openness is identified in the Framework as one of the Green Belt's essential characteristics. It has both a spatial and visual aspect.
21. Although this part of the site was previously occupied by two smaller structures, the historic Google Earth images show that they were erected sometime after September 2021, so would not have gained immunity from enforcement action through the passage of time. Nevertheless, the existing outbuilding has evidently been erected on the hard surface area of the car park and thus should be considered as previously developed land for the purposes of the Framework.
22. Whilst not particularly high or deep, the outbuilding is wide, and its presence has a material effect on spatial openness. Due to its position at the rear of the site and the screening afforded by the surrounding buildings and enclosures, there is little or no public perception to the loss of openness from beyond the boundary of the site. Nevertheless, the outbuilding will be clearly seen by customers of the bar and restaurant, given that it faces out onto the car park serving the same, and because of its position adjacent to the beer garden.
23. Combining the spatial and visual aspects, the outbuilding has a modest effect on the openness of the Green Belt. It follows that it does not result in substantial harm to the same, thereby meeting exception (g).
24. Accordingly, the outbuilding does not amount to inappropriate development in the Green Belt for the purposes of the Framework, London Plan Policy G2 or LP Policy ECC06. Very special circumstances do not therefore fall to be considered.

Character and appearance

25. The appeal site is located within the Mill Hill Conservation Area (MHCA). I therefore have a statutory duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing its character or appearance. As the Rising Sun public house is a grade II listed building, I also have a statutory duty, under Section 66(1) of that Act, to have special regard to the desirability of preserving the building or setting or any features of special architectural or historic interest which it possesses.
26. The significance of the MHCA is derived from its mixture of mansion houses, modest cottages and institutional buildings, complimented by its attractive semi-rural setting, undulating topography and variety of green spaces and high-quality trees and planting. It is an extensive designation and is sub-divided into six character areas by the Mill Hill Conservation Area Character Appraisal Statement (CAS), with the appeal site falling within Area 1: Nan Clarks Lane/Highwood Hill.
27. Dating from the late 17th century, the Rising Sun public house is a two storey building with additional accommodation at roof level, served by gable dormers expressed to the road, partly behind a raised front parapet. On one side of it is a matching single storey annex with front gable dormer. On the other side is a single

storey weatherboard structure projecting forward of the main front elevation, with a slate gable roof.

28. The CAS identifies the green at the junction of Highwood Hill and Marsh Lane to provide a central focus to a picturesque grouping of historic buildings surrounding the Rising Sun public house. However, the outbuilding cannot be seen within that context, being positioned in the rear corner of the car park, behind the Rising Sun public house. Consequently, the outbuilding is not seen from the public realm and has no material effect on the setting of the listed building as it applies to its main principal, public facing elevation. Nor does it affect the setting to the cluster of buildings surrounding it.
29. The top part of the outbuilding can be seen above the fence from the adjacent private access to Sweetree Fields Farm (the owner of which has written in support of the development) but because of the mature trees and planting on the boundary to York Lodge, views of the outbuilding are likely to be very limited from that residential property. Moreover, because of the very high boundary wall and buildings backing onto the site, views of the outbuilding from No 135 Marsh Lane are also likely to be limited. Combining the very limited private views with the lack of visibility from the public realm, the outbuilding has a limited effect on the MHCA as a whole.
30. Nevertheless, the outbuilding faces directly onto the Rising Sun car park and thus is very clearly seen in that context. Because it is constructed in what appears to be black painted sheet wood (OSB boards) with a felt, mono-pitched roof, it has a fairly rudimentary, functional and makeshift appearance, which is not befitting of its sensitive location. In overall terms it amounts to a poor form of development which detracts from the character and appearance of this part of the appeal site. The attached screen fencing to part of the building does little to mitigate the harm arising.
31. I understand why the appellant alludes to a back of house, functional part of the site and the preservation of the public image of the listed building. However, the car park has a clear functional and visual relationship to the listed building and forms part of its setting. Customers arriving by car, or using the beer garden, will experience and perceive both aspects together and because of its aforementioned characteristics, the outbuilding will appear in stark contrast to the attractive and historic composition and detailing of the listed building, thereby detracting from its setting.
32. Bringing the above together, I find the outbuilding to be harmful to the character and appearance of the area. It follows that the alleged development fails to preserve or enhance the MHCA and the setting of the listed building, contrary to LP Policies CDH01 and CDH08 and the CAS. Those state, amongst other things that the Council will ensure that Barnet's designated heritage assets, including its conservation areas and statutory listed buildings, are conserved and enhanced in a manner appropriate to their significance
33. In this case I conclude that the alleged development leads to less than substantial harm to the setting of the listed building and the MHCA taken as a whole. In such circumstances the Framework requires that the identified harm is weighed against any public benefits the development might secure.

34. As noted, the outbuilding is used for storage purposes in association with the Rising Sun restaurant and bar. Consequently, it is likely to provide important operational benefits to that community facility. I am therefore mindful that paragraph 85 of the Framework states that planning decisions should help create the conditions in which businesses can invest, expand and adapt and that significant weight should be placed on the need to support economic growth, taking into account local business needs.
35. Paragraph 98 also states, amongst other things, that policies and decisions should plan positively for the provision and use of community facilities (such as public houses) and other local services to enhance the sustainability of communities and residential environments.
36. However, for the reasons explained, the outbuilding is not well-designed and I see no reason why the social and economic benefits derived from the storage facility could not be achieved through alternative provision, which respects its sensitive location and avoids the harm described. In that regard, the Council appears to be open to considering an alternative storage building in this location, but it rightly refers to utilising a pallet of materials which reflects its location within the MHCA and the setting of the listed building. The existing outbuilding falls significantly short of achieving that.
37. I therefore find that the public benefits of the proposal do not outweigh the less than substantial harm identified. Although the degree of harm would be at the lower end of the spectrum, I am required to give great weight to the conservation of the designated heritage assets.

Conclusion

38. For the reasons given above, and having considered all other matters raised, I conclude that the outbuilding is contrary to the development plan as a whole and material considerations do not indicate that the appeal should be determined otherwise than in accordance with the development plan. The appeal should be dismissed.

Richard S Jones

INSPECTOR