



Appeal Decision

Inquiry held on 25, 26 November and 2 December 2025.

Site visits made on 24 and 27 November 2025.

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th December 2025

Appeal Ref: APP/T5150/C/25/3369293

Land at 31 Anson Road, London NW2 3UX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Abbeylord Properties Limited against an enforcement notice issued by the Council of the London Borough of Brent.
- The notice was issued on 6 June 2025.
- The breach of planning control as alleged in the notice is: Without planning permission, the erection of outbuildings in the rear garden of the premises. ("the unauthorised development").
- The requirements of the notice are:
 - STEP 1 Demolish the buildings in the rear garden of the premises.
 - STEP 2 Remove all associated waste, debris, items and materials, arising from its demolition, from the premises.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (b), (d), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed, and the enforcement notice is upheld with corrections and a variation in the terms set out below in the Formal Decision.

Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - the deletion of the word "outbuildings" and its substitution with the word "outbuilding" where it appears in Schedule 2 and Schedule 3;
 - the deletion of the word "their" and substitution with "its" in the first sentence of paragraph 2 in Schedule 3;
 - the deletion of the words "developments are" and substitution with "development is" in the last sentence of paragraph 2 in Schedule 3;
 - the deletion of the words "It appears to the Council that the unauthorised development took place within the last 4 years." in Schedule 3;
 - the deletion of the word "buildings" and substitution with the word "outbuilding" in STEP 1 in Schedule 4; and
 - the deletion of the number "3" and substitution with "6" in Schedule 5.
2. Subject to the corrections and variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Applications for costs

3. An application for a full award of costs was made by Abbeylord Properties Limited against the Council of the London Borough of Brent. This application is the subject of a separate decision.
4. An application for a partial award of costs was made by the Council of the London Borough of Brent against Abbeylord Properties Limited. This application is the subject of a separate decision.

Procedural Matters

5. The Inquiry opened on 25 September 2025, and we sat for 3 days. The third day was a virtual session to hear closings and cost applications. All evidence on legal grounds was heard under affirmation and through cross examination.

The Enforcement Notice

6. It was agreed that there would be no injustice to either party if the alleged breach of planning control referred to “the erection of an outbuilding” rather than “the erection of outbuildings”. Works were ongoing and the roof was incomplete when the Council carried out their site investigations, and it was thus not clear at that time whether there was one or two separate outbuildings. However, it is agreed that the completed building is now a single structure. I shall therefore correct the wording of the breach, with consequential corrections to the balance of the Notice.
7. The Enforcement Notice was issued on 6 June 2025 and at Schedule 3 advises that it appears to the Council that the unauthorised development took place within the last 4 years. However, with effect from 25 April 2024, Section 171B(1) (a) of the Town and Country Planning Act, 1990, as amended¹ (the Act), states “(1) *Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of – (a) in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed, and.....*”. It is the Council’s case that the operations alleged in the Notice was not substantially complete until after 25 April 2025, and thus the requisite immunity period would be ten years and not four as set out in the Notice.
8. Nevertheless, it is not necessary for an Enforcement Notice to include reference to the time period within which the alleged breach of planning control occurred. Therefore, in the interests of precision, as agreed by the parties at the Inquiry, I shall correct the notice to remove reference to the time period by deleting the first sentence in Schedule 3. That correction would not result in any injustice to either of the main parties.

Appeal on ground (b)

Summary of Cases and Main Issue

9. The appellant’s case is that an outbuilding has not been erected. Instead, he contends that the building works that have been undertaken to Units 14,15 and 16 are works of repair, refurbishment and alteration of existing self-contained

¹ Inserted by the Levelling -up and Regeneration Act 2023

dwellings. Those dwellings have been in existence on the site since 2003 (Units 14 & 15), and in the case of Unit 16, since 2005 and therefore as a matter of fact, a new outbuilding has not been constructed on the Land. Evidence submitted to support his case included aerial images, pre-existing and current floor plans/elevations with orientated photographs, and a building specification report setting out the schedule of works undertaken during the building works.

10. On the other hand, the Council contend that when the Notice was issued a new outbuilding had been constructed on the Land as a matter of fact and degree. They accept that the outbuilding is now in use as three separate dwellings but contend that the building works that have taken place, and resultant building comprises the erection of a “new” building. Consequently, the original building on the Land, as a matter of fact and degree, has ceased to exist.
11. The issue in a ground (b) appeal is whether the alleged breach of planning control has occurred as a matter of fact. The allegation is one of operational development, that a new outbuilding has been erected. It is understood that the description of the building as an “outbuilding” was chosen because at the time when the notice was served, it was a subservient building to the host property, 31 Anson Road, which was not finished internally and nor was it occupied. It seems to me that ground (b) does not turn on the building’s description as an outbuilding. It is clear to all parties which building the notice refers to, whether it is described as an outbuilding, a building or a structure. The main issue is whether as a matter of fact and degree a new “structure”² has been erected on the Land. On this legal ground the burden of proof falls on the appellant to make out their case, and the test is the balance of probability.

Reasons

12. There is no dispute between the parties that built form has existed within the rear garden of the appeal site since at least 2003, and that dwellings had also existed in that location for more than 10 years. It is also agreed that those dwellings were not occupied between November 2024 and July 2025 and whilst building works were taking place on the Land.³

Evidence of Former Structure

Aerial Images⁴

13. The aerial images provided by the appellant confirm that prior to the works commencing there was built form in the general location of the current structure. Due to the presence of foliage and shadows, the exact form/layout of that structure is not clear from those images, albeit it appears that it was predominantly flat roofed. Nor do those images provide any clarification on the original structure’s design or appearance, including fenestration, materials of construction, finish, or height. The weight that can be attached to the evidence those images provide is therefore limited.

² A neutral term for a building or outbuilding.

³ Statement of Common Ground, Matters Agreed.

⁴ Appendix 5, Appellant’s Statement of Case.

Former Existing Floor Plans & Elevations⁵

14. The former floor and elevation plans were prepared for the appellant by Mr Judd. Mr Judd told the Inquiry that those drawings were based on many photographs (70-80 in number) and videos which the appellant had provided him with, from discussions with the site supervisor Mr Hill, and from his own visits to the site. Albeit he acknowledged that he did not visit the site until the works were near completion in the summer of 2025 and so was unable to see the original structure.
15. The photographs and videos which Mr Judd relied on were not submitted or in evidence at the appeal/Inquiry. However, I have no reason to believe that Mr Judd did not have access to those documents. Nevertheless, Mr Judd revised his former drawings to include the original pitched roof area between Units 15 & 16 at the end of September 2025 in response to evidence produced by the local planning authority in their Statement of Case⁶. Furthermore, Mr Judd also conceded in cross examination, that his former West Elevation drawing was incorrect having now had regard to Figure 4, an external image of the former entrance to Unit 14.⁷ At Inquiry, he stated that he had not seen that image when he drew the plans. Furthermore, when considering external image E of Unit 16⁸, there are also inaccuracies in the former East Elevation drawn by Mr Judd. Consequently, the accuracy of his “former” drawings is questionable, considering the discrepancies identified and in the absence of the photographs/videos he stated he had used, being provided to the Inquiry which would corroborate them. I therefore give those former drawings little weight.

Energy Performance Certificates, Meter Point Administration Numbers, Valuation Report⁹

16. These documents submitted by the appellant provide some evidence to suggest that prior to the unauthorised works commencing there were three self-contained dwellings in the rear garden of the appeal site. As set out in the Statement of Common Ground (SOCG) this is not a matter which is in dispute between the parties. These documents do not assist in my determination as to whether the unauthorised building works carried out comprise the erection of an outbuilding as alleged.

Photographic Evidence

17. Photographic evidence of the original building/dwellings prior to the unauthorised works taking place is available, albeit it is not sufficiently comprehensive for me to conclusively determine the precise design and form of that building. However, the appellant's Appendix 17 includes images which show parts of the exterior of the original building. In the case of Unit 16 it was timber framed, had timber cladding to the walls and a felted roof. The front entrances of Units 14 and 15 were faced in brickwork, with their perimeter side and rear walls formed by concrete/brickwork, and those walls also form the garden boundaries to neighbouring properties. Units 14 and 15 had a predominantly flat roof, albeit photographs taken from neighbouring properties on Keyes Road show that there was also a pitched roof

⁵ Appendix 12, Appellant's Statement of Case

⁶ Paragraph 1.25 Appellant's Final Comments and Final Comment's Appendix 2.

⁷ Appendix 13, Figure 4, Appellant's Statement of Case.

⁸ Appendix 17, Appellant's Statement of Case.

⁹ Appendices 6, 7 & 8, Appellant's Statement of Case.

element over part of Units 15 and 16.¹⁰ Furthermore, the photographs in the appellant's Appendix 17 also show that the roof on Unit 16 overhung its East Elevation (image E), whilst that image, along with images D and G provide some evidence of the original fenestration of the building. The images within Appendix 13 of the appellant's Statement of Case provide internal images of the original building/dwellings.

18. Whilst the photographic evidence provided by the appellant is not comprehensive, it does provide some evidence of the external appearance of the original building, its interior layout and general form. Additional photographs of the interior of Unit 16 prior to the works being undertaken are also provided in Mr Wick's Proof of Evidence at Appendix 16 which assist in understanding the layout of that Unit of accommodation and interior floor levels. The weight that can be attached to the photographs is substantial.

Evidence of Works/Development Undertaken

Building Specification Report (BSR)¹¹

19. Mr Judd prepared a report which purports to provide details of a schedule of the works undertaken to the original building during the construction period. His report advises that the BSR is based on the videos and photographs provided to him by the appellant, other documents (not specified in the report, nor provided to the Inquiry), and in consultation with Mr Hill, the site foreman. Those works are set out in the paragraphs below and using his headings. I shall consider the scope of those works alongside the Council's evidence submitted in support of their case, evidence provided orally by all witnesses during the Inquiry and my own observations during my site visits.

Foundation Support

20. The BSR states that all former foundations and below ground support structures have been utilised, and no modifications have been carried out. This was also Mr Phillips' evidence. Mr Hill also told the Inquiry that all new brick work was built on old foundations. However, in response to my questions Mr Hill stated that the new brickwork was built on strip foundations with a damp proof membrane in between.
21. There is no dispute that the original exterior concrete/brick perimeter walls to Units 14 and 15 and which form the boundaries to adjoining gardens on Keyes Road and Anson Road, remain. However, having regard to historic photographs¹², the exterior inward facing walls to those Units, including their entrances (south facing) have been completely rebuilt on a different alignment with new brickwork plinth walling and rendered panels. The original redbrick exterior walls have been removed, including a whole section of building/corridor which had linked the original building to the main dwelling. It seems to me that it is highly likely that those new brickwork plinth walls have been constructed on new strip foundations as described by Mr Hill.
22. Unit 16 was a timber framed and timber clad structure. Photographs taken by Ms Szeles on her visit to the site, and whilst construction was ongoing, show walls of this building being dismantled. Ms Szeles told the Inquiry that beneath what

¹⁰ Appendices 2 & 3, Nigel Wicks POE.

¹¹ Appendix 16, Appellant's Statement of Case.

¹² Figures 4, 6, and 8, Appendix 13, Appellant's Statement of Case.

remained of the building at that time she saw only bare earth and no solid foundation. Her photographs appear to support those observations¹³. Nonetheless, at my site visit on 27 November I observed a small area of ground which had been excavated at the southwestern corner of Unit 16. In that location, where the only section of timber clad walling remains along part of the building's western facing elevation, I saw within that excavation some evidence of concrete beneath the remaining timber frame. However, I also observed what appeared to be new concrete as well as new brickwork beneath the new rendered panel on the southern and eastern elevations of Unit 16, and evidence of a new damp proof membrane. New concrete and brickwork plinths to Unit 16 are also evident in the photographs appended to the Council's Statement of Case¹⁴. It seems to me highly likely that new strip foundations were laid in those locations. Mr Phillips told the Inquiry that no new concrete was brought onto site, however, it is clear from Figure 7¹⁵, that new concrete was at least poured into the new patio area created for the rear extension. I am also aware that he was not always on site, he told the Inquiry he visited the site maybe once a week or once a fortnight.

23. As set out above, the oral evidence from Mr Phillips and Mr Hill was contradictory, and inconsistent with the photographic evidence identified in the paragraphs above. On the balance of probability new strip foundations were laid for the new walls to Units 14 & 15 as set out above, and for at least a proportion of Unit 16. A new damp proof membrane was also provided.

Utilities and Below Ground Services

24. The BSR states that the existing water supplies, electricity supplies and below ground drainage from the original building/dwellings were utilised in the works. The Council do not dispute that information and I see no reason to disagree. However, it is also evident from all the photographs taken during the construction works, that all the Units have new electrical wiring, new sockets, switches, lighting and all new internal plumbing.

Floor Structures

25. The BSR states that the former suspended floor structure has been maintained at its previous level with a number of joists being replaced due to their poor condition. Where the footprint of the building has been reduced, the floor structure and masonry sleeper walls have been removed. The former floor deck has been maintained and only failed material replaced. New PIR insulation panels have been fitted in between the joists.
26. There is no documentary evidence to clarify exactly what works were undertaken to the floor structures in Units 14 and 15. However, the front southern elevations of those units have been realigned and rebuilt and thus there will have been some modifications to the floor structures. We were also told at the Inquiry about the remains of a Koi pond beneath these Units and damp associated with it which required remediation by building works. However, the nature and extent of the works undertaken were not clear from either Mr Hill's or Mr Phillips' evidence.
27. Although the BSR states that the suspended floor structure was maintained at its former level and only some joists replaced, it is clear from internal photographs of

¹³ Appendices ZS1 & ZS2, Ms Szeles POE.

¹⁴ Appendix 8 LPA Statement of Case.

¹⁵ Figure 7, Appendix ZS1, Ms Szeles POE.

the former interior to Unit 16¹⁶, that the original floor of this Unit was not level throughout. There was a clear step between the living/bedroom and the kitchen area. This step is no longer apparent in the finished structure, and Figure 17 contained within Appendix ZS1 of Ms Szeles POE shows that all the floor structure in that part of the original building was removed, with only bare earth remaining. Mr Phillips told the Inquiry that the bathroom floor in the former Unit 16 had rotted and had to be replaced.

28. The evidence available, including that given during cross examination by Mr Judd and Mr Phillips was not consistent and not sufficiently precise and unambiguous for there to be any certainty as to how much of the original floor structure to the building remains, and how much is new.

External Walls

29. The BSR states that the outer masonry perimeter walls to Units 14 and 15, which also form the boundary enclosure to the neighbouring properties, have been kept. In addition, the timber clad wall which forms the western elevation to Unit 16 also remains. From the photographic evidence available and observations on my site visit I see no reasons to disagree with the BSR in that regard.
30. The BSR also advises that in respect of the building's remaining external walls that face inward of the boundary, the vast majority of the former brickwork and timber frames have been kept. However, from the evidence available, the inward facing external brickwork walls (southern elevation) to Units 14 and 15 have been rebuilt. This is evident as the original brickwork has been removed and the walls realigned to create a free standing building (it is no longer attached to the main dwelling/laundry room) and with new external entrances to Units 14 and 15. Those works are clearly identifiable when comparing the footprint and elevations of the finished building with original photographs provided by the appellant in Appendix 13 of his Statement of Case. All new external inward facing walls are now render board finished in a sand cement render with a painted finish.
31. From the evidence available it is difficult to establish how much of the original timber frame/supporting walls to Unit 16 remain. The western facing elevation/frame and cladding adjacent to the boundary to No 29 Anson Road appears to have been kept. However, having regard to all the photographs of this Unit being dismantled, and considering the reconfiguration of the walls to create a new external entrance to Unit 15, and new fenestration, including relocation of patio doors and new window openings, on the balance of probability, with the exception of the perimeter (west elevation), very little, if any, of the remaining original timber frame which supported the exterior timber cladding remains.

Internal Walls

32. The BSR states that former internal walls and partitions were formed of timber stud and intermediate cross rails. It states that in the main these have been kept in place and where needed new plasterboards have been applied where former material had spoiled. All inner faces of the external walls have also been laminated with plasterboard. All plasterboard has received a skim coat of plaster and decorative finish.

¹⁶ Appendix 16, Mr Wicks' POE

33. Having regard to the current layout of the outbuilding/individual units, photographic evidence of the former layout of the Units contained within Appendix 13 of the appellant's Statement of Case and Ms Szeles photographs taken during construction works (her Appendix ZS1), internally the building has clearly been altered substantially. This is contrary to the BSR which states, "in the main the internal walls and partitions have been kept in place". As a matter of fact, the original partitions for the individual bathrooms within each unit have been removed, and new ones installed in different locations. The position of the individual kitchen units/appliances has also altered. All internal walls, including new stud partitions and ceilings have had new plaster board which has then been skimmed with plaster and decorated.

Roof

34. The BSR states that the former roof structure was that of timber joists and rafters forming a flat roof construction. It advises that the roof had been leaking for a considerable time and all applied decks over the structure were removed. Any failed or poor condition rafters were replaced with matching material and the flat roof areas maintained. The BSR also advises that the former roof falls were inadequate, and furring pieces were applied to generate a suitable fall allowing all surface water to be managed within the site. A new waterproofing solution was applied to the new decking boards.
35. Mr Horgan told the Inquiry that he had been doing roof repairs for the appellant for many years. The roofs of the dwellings had been leaking for a long time and during the last few years he had done patch repairs and latterly covered them with tarpaulin to help prevent further water damage. He visited the site in April 2024 and advised that the roof needed to be replaced.
36. At paragraph 3.3 of Mr Horgan's Proof of Evidence he states that the works that he undertook in 2024 comprised stripping the roofs, damaged joists replaced, a new deck installed with fibre glass waterproofing with new lead flashings. The existing roof lights were removed or replaced, and existing vents were replaced. The height of the roof structure remained similar or reduced when compared to the pre-existing arrangement.
37. However, Mr Horgan told the Inquiry that the builders had stripped the original roofs, and that he was just responsible for recovering them. He stated that he didn't construct the roof, he just did the roof covering and replacement skylight to Unit 15. He firstly did the roofs to Units 14 and 15 and then when the pitched roof area between Units 15 and 16 had been removed and a new roof to Unit 16 constructed, he recovered Unit 16 and joined the roof to Unit 15 with a box gutter.
38. The evidence Mr Horgan gave at Inquiry was thus in conflict with the Proof of Evidence produced by him, which stated that he had stripped the roofs, replaced damaged joists and installed the new roof deck.
39. Photographs of the works being undertaken to the roofs have been provided by neighbouring residents on Keyes Road and are set out in Appendix 14 of Mr Wicks' Statement of Case. Mr Wicks spent some considerable time at the Inquiry questioning Mr Horgan and seeking to establish whether the height of the building had increased during the works. Neighbouring residents suggest that it has. Ms Szeles also told the Inquiry that she believed the height of the building had increased. However, during cross examination when asked what her belief was

based on, she changed her mind twice, firstly referring to certain photographs, and then after denying that that was the case, stating her belief was based on observations at the Inspector's site visit. She then withdrew that answer and ultimately conceded that her belief was based on nothing.

40. From the documentary evidence available, i.e. photographs of the roof taken before, during and after the works¹⁷, I do not believe it is possible to ascertain whether the works have resulted in an increase in the building's height. The removal of the pitched roof area has resulted in a decrease in height in that section of the building. In addition, the BSR refers to applying furring pieces to generate a suitable fall, and thus this may have increased the building height marginally. However, having had regard to the documentary evidence and observations on my site visit any increase in height is not significant.
41. It is clear from photographs dated 15 & 16 November 2024 taken from Keyes Road that the roof to Units 14 and 15 was completely stripped and new rafters provided throughout. Mr Hill also told the Inquiry that he had removed the steel beam in this Unit which is visible in Image C and F¹⁸. However, Mr Phillips told the Inquiry that no steel beams had been removed. Figure 5, an internal image of Unit 14 suggests that there were steel beams supporting the original roof¹⁹. Internal images of Unit 14 in estate agent details, dated September 2025²⁰, suggest that this beam was removed, as confirmed by Mr Hill. However, it is not clear how the new rafters are now supported as Mr Hill was unclear on that point.
42. Prior to the works being undertaken to Unit 15 there was a skylight in that Unit. This skylight has been replaced by a new unit, in roughly the same position.
43. A further photograph dated 18 January 2025 taken from Keyes Road²¹ confirms that the whole of the roof to Unit 16 was replaced. It is also apparent that this Unit no longer has the large overhanging roof to its eastern elevation that formed part of the original building. When Mr Judd was questioned about that change to the roof scape, he was unable to say whether it was the roof that had been altered or the position of the walls to Unit 16. However, he acknowledged that it must be either one or the other of those changes.
44. Mr Horgan, Mr Hill, Mr Judd (BSR) and Mr Phillip's evidence is not consistent with regard to what works were undertaken to the roof and by whom. From the documentary evidence available, on the balance of probability, the whole of the roof structure of the building was removed and replaced.

Gutters and Downpipes

45. The BSR confirms that all former guttering and down pipes have been replaced.

Windows and External Doors

46. The BSR states that a small number of windows and French doors have been kept and either maintained in position or transferred to a new location.

¹⁷ Appendix 14, Mr Wicks' POE.

¹⁸ Appendix 17, Appellant's Statement of Case

¹⁹ Figure 5, Appendix 13, Appellant's Statement of Case

²⁰ Appendix 17, Mr Wicks' POE.

²¹ Appendix 14, Mr Wicks' POE.

47. Having regard to the drawings prepared by Mr Judd, which show the former and current layout and elevations of the building²², it is evident that, apart from the position of the current patio doors to Unit 16, all other window and door openings have changed their position and/or form. The composition of the fenestration and thus the inward facing elevations of all the Units have been substantially altered as a matter of fact.

Decoration and Finishes

48. The BSR confirms that all of the Units have received a new decorative internal finish and all internal items and appliances have been replaced.

Small Power & Electricals

49. The BSR states that the former electrical supply to each Unit has been maintained and checked for safety. Internal wiring was maintained where appropriate under the realms of the electrical regulations.
50. There is no evidence in the form of certificates or building regulations for the electrical works. It is not disputed that each Unit had its own electrical supply which has been maintained. However, having regard to the photographs of the works being undertaken, as set out in paragraph 21 above, each Unit has had new sockets, switches, ceiling lighting all in different locations, taking account of all the building works undertaken, on the balance of probability, all internal wiring is highly likely to be new.

Conclusion on Ground (b)

51. Drawing together my findings in the paragraphs above on this main issue, the evidence given by the appellant at the Inquiry and on behalf of him by Mr Hill, Mr Horgan and Mr Judd, was not consistent with either each other, or with some of the documentary evidence provided. The weight that I attach to that oral evidence and their Proofs of Evidence is therefore limited.
52. Having regard to all the documentary evidence available, including observations on my site visit, there was previously a building within the garden area of the appeal site which contained three dwellings. I recognise that the appellant was seeking to improve the accommodation provided by those dwellings, as it was clearly unsatisfactory, in need of repair and becoming inhabitable. Nevertheless, having regard to the photographs submitted in evidence to the Inquiry and from what I saw on my site visit, there can be no dispute that as a matter of fact a substantial amount of operational development has taken place. In summary, having regard to my findings as set out above, this operational development includes the removal of at least 50% of the exterior brickwork and timber clad walls and erection of new exterior walls clad in rendered panels on a brick/concrete plinth, including new strip foundations and a damp proof course. Part of the connecting corridor to the main dwelling was removed and the external inward facing walls to the original building were reconstructed and realigned to create a free-standing structure. A new roof structure and roof covering was provided to the building. There were alterations to the suspended interior floors and new suspended floors; substantial alterations to the pattern of fenestration, including new external entrances to all Units. Parts of the original internal wooden

²² Appendices 12 & 14, Appellant's Statement of Case.

structure/frame may remain, although it has been extensively re-placed and repaired. All internal walls, including new stud partition walls and new ceilings have been clad in plasterboard and skimmed in plaster. The internal layout of the building has been completely altered, with new bathrooms and kitchens.

53. Although elements of the original building fabric remain, the original building was largely dismantled, and any remaining elements were incorporated into the fabric of the new building. This was not a case of just refitting out the original building with a new kitchen, bathroom, etc. Taking all the above matters into account, and having regard to *Hibbitt*²³, what has taken place on the site is in my judgement, as a matter of fact and degree, a “*fresh build*” and not the repair, refurbishment and alteration of the original building, which in the main has been demolished and thus ceases to exist.
54. I have had regard to the appellant’s reference to a planning application considered by the Council on Willesden Lane²⁴, which they considered relevant to this appeal as it involves similar works but was not described as a “new building”, but refurbishment and remodelling. However, that was not a case of the Council issuing an enforcement notice and alleging those works. Instead, it was an application for development as described by the applicant. It is not therefore directly comparable to the circumstances in this appeal, and I attach it little weight.
55. In the circumstances, I consider that on the balance of probability, the erection of an outbuilding, as stated in the notice, as corrected, has occurred. The appeal on ground (b) fails.

Appeal on ground (d)

56. The ground (d) appeal is that on the date when the notice was issued, no enforcement action could be taken. In relation to a breach of planning control consisting of building and engineering operations, at the time the notice was issued, no enforcement action may be taken after the end of the period of 10 years, beginning when the development was substantially complete, or four years if the building was substantially complete prior to 24 April 2024 (S171B (1)). The burden of proof in an appeal on this legal ground lies with the appellant and the test is the balance of probability.
57. The appellant maintains that Units 14 and 15 were substantially complete in 2003 and that Unit 16 was substantially complete in 2005. The building is therefore immune from enforcement action.
58. Considering my findings on ground (b), the building which previously existed on the Land prior to the unauthorised works taking place no longer exists. I found that the works undertaken during the period between November 2024 and June 2025, as a matter of fact and degree, are a ‘fresh build’ and comprise the erection of an outbuilding. The erection of that outbuilding did not commence until at least the late summer of 2024, once the previous dwellings were vacated and the old building substantially dismantled. The outbuilding erected, and the subject of the Notice, was not substantially complete until at least May 2025.

²³ *Hibbitt v SSCLG & Rushcliffe BC* [2016] EWHC 2853 (Admin).

²⁴ LPA Ref: 25.1370, dated 29/08/2025.

59. The 2024/2025 works were a new act of development and the outbuilding erected was not substantially completed more than 10 or indeed 4 years before the notice was issued. The appeal on ground (d) therefore fails.

Appeal on ground (a), deemed planning permission

Main Issues

60. The main issues are the effect of the development on:

- the character and appearance of the area, including Mapesbury Conservation Area; and
- the living conditions of neighbouring residents.

Reasons

Background

61. It is the appellant's case that prior to the unauthorised works taking place there was substantial built form comprising three dwellings in the location of the new outbuilding which they considered to be lawful. Therefore, the appellant contends that the unauthorised development carried out, should be considered having regard to the 'lawful' development that previously existed on the Land and using that as a baseline.
62. In a ground (a) case, the description of the development the subject of the deemed application is derived from the allegation. As set out in my findings on ground (b), the operational development which has been carried out is, as alleged, the erection of an outbuilding. The previous building on the land in this location was, as a matter of fact and degree dismantled and any lawful rights that building may have accrued no longer exist. There is thus no fallback position, and my considerations in ground (a) are based solely on the development alleged.

Character and appearance, Mapesbury Conservation Area

63. The appeal site lies within Mapesbury Conservation Area (CA). From the evidence available, including Mapesbury Conservation Area Character Appraisal/Management Plan and observations on my site visits, I consider the significance of the CA is largely derived from its position within a cohesive residential area characterised by largely unaltered suburban villas/town houses which date from the late 19C situated within their own plots. The attractive brick houses with intricate detailing are set within tree-lined streets with modest front gardens behind brick walls. The rear gardens of the properties are generous and typically contain mature trees and other well-established planting which contribute to the open and spacious character of the area.
64. The outbuilding erected, albeit single storey, is substantial in size and occupies almost all of the rear garden area of the already extended host property. Thus, there is no opportunity for soft landscaping and the scale of its built form has a harmful effect on the open and spacious character of the CA. Whilst I recognise that rear outbuildings are not an uncommon characteristic of residential properties in the area, those other outbuildings do not subsume the garden areas of their host properties to the same extent as the building in this case. Furthermore, the design and appearance of the building, including its materials of construction, a mismatch

of rendered boards, timber cladding and plastic windows/doors, all sitting beneath a large expanse of flat roof, does not reflect the local vernacular architecture and has a harmful effect on the appearance of the area, in particular when viewed from the rear windows of neighbouring properties.

65. I conclude that the outbuilding has a harmful effect on the character and appearance of the area and fails to preserve or enhance the character or appearance of Mapesbury Conservation Area. It causes less than substantial harm to the significance of the CA as a heritage asset and that harm is towards the top end of the scale. This harm is not outweighed by any public benefits. The unauthorised development is therefore contrary to the policies in the National Planning Policy Framework (NPPF) which seek to conserve or enhance the historic environment and promote good design. In addition, there is conflict with the design and heritage aims of Policies DMP1 and BCH1 of Brent Local Plan, 2019-2041 (BLP) and Brent's Residential Extensions & Alterations, Supplementary Planning Document, January 2025.

Living Conditions

66. No 31 Anson Road is in use as 13 self-contained flats, including two flats which are accommodated within a ground floor rear extension. The outbuilding erected covers most of the original rear garden to No. 31. Consequently, the occupiers of the 13 flats within the host property have no outdoor amenity space/garden area available to them. Furthermore, the ground floor flats within No 31 (Units 12 and 13) are single aspect and their outlook is dominated by views of the new outbuilding near to their primary living accommodation. The occupiers of those Units are likely to be disturbed by any use of the outbuilding, including from light nuisance, noise and loss of privacy as a result of the general activity associated with a substantial building in the garden.
67. For the reasons set out above, I conclude that the new outbuilding has a harmful effect on the living conditions of existing occupiers of the host property, No 31 Anson Road. There is conflict with the development plan, including Policy DMP1 of the BLP which seeks to ensure that new development, amongst other criteria, provide high levels of external amenity and complements the locality. I also find conflict with paragraph 135 (f) of the NPPF which advises that planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Appeal on ground (f)

68. The issue is whether the requirements are excessive to achieve the purpose of the notice.
69. Section 173 of the Act indicates that there are two purposes which the requirements of an enforcement notice can seek to address. The first is to remedy the breach of planning control that has occurred and the second to remedy any injury to amenity which has been caused by the breach. The purpose of the notice in this case is to remedy the breach of planning control.
70. The appellant contends that the requirement to demolish the outbuilding is excessive. Instead, it should simply require reversion to the pre-November 2024 works.

71. Considering my findings on ground (b), the original, pre-November 2024 building no longer exists. Most of that building was demolished and removed from the site. As found in *Oates*²⁵, the landowner has no lawful rights in the new structure as constructed on the site without having first sought and obtained the necessary planning permission for them. Such lawful use rights as had attached to the original building were lost when that building ceased to exist as a building and “the new outbuilding” had replaced it.
72. It would be excessive for the notice to require the rebuilding of the previous structure, when demolition was not alleged. Furthermore, the appellant’s evidence provided to the Inquiry of what previously existed on the Land and prior to the construction works is not precise and unambiguous.
73. The breach of planning control can only be remedied by the demolition of the outbuilding as required by the notice, as corrected. There are no lesser steps that would achieve the statutory purpose behind the notice.
74. The appeal on ground (f) fails.

Appeal on ground (g)

75. The issue is whether the compliance period of three months is reasonable and proportionate. The appellant considers that this is an unreasonable timeframe given the need for existing occupiers to find alternative accommodation, and for him to possibly secure planning permission for an alternative scheme. He suggests that a period of six months would be more reasonable.
76. I appreciate that none of the occupants appealed the Notice and none have expressed concern at the loss of the accommodation. I am also aware that the appellant has not produced copies of any of the tenancy agreements which are in force for these Units. Nevertheless, the building is now occupied by at least three tenants and they will need to find new homes. Only once the building has been vacated can it be demolished and the notice complied with in full.
77. Six months is a relatively short period of time for the tenants to vacate the premises and the notice be complied with in full. I shall therefore vary the notice to give an extended time period of six months. The appeal on ground (g) succeeds to that extent.

Human Rights

78. I have taken into consideration the Human Rights Act, 1998 which enshrines in UK law most of the fundamental rights and freedoms contained in the European Convention on Human Rights. I recognise that the dismissal of the appeal would interfere with the occupier’s rights under Article 8 and the Appellant’s rights under Article 8 and Article 1 of the First Protocol. However, given the harm identified in the notice and considering the extended time period I have allowed for compliance with it, the action is in accordance with the law and pursues legitimate aims regulating land use in the public interest and is necessary and proportionate to the situation.

²⁵ *Oates v SSCLG & Canterbury CC* [2017] EWHC 2716 (Admin), [2018] EWCA Civ 2229; [2019] JPL 251

Conclusion

79. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Elizabeth Pleasant

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Stephen Whale of Counsel, instructed by James Dawe SM Planning.

He called

Chris Hill Builder, Site Supervisor.

Phillip Horgan Roofer.

Mr Simon Judd, BSc (Hons) Dip Arch RIBA Judd Architecture.

Michael Phillips Appellant, Abbeylord Properties Limited.

James Dawe, BSc (Environmental Science); Master's Degree in Planning Policy and Practice; Licentiate MRTPI. Associate Planner at SM Planning.

FOR THE LOCAL PLANNING AUTHORITY

Mr Nigel Wicks BTP, Dip Law, MRTPI, instructed by Tim Rolt, Enforcement Manager, the Council of the London Borough of Brent.

He called:

Zsuzsa Szeles, BA Hons (Town & Country Planning), MSc (Spatial Planning), Post Graduate Diploma (Urban Design), Senior Planning Enforcement Officer, Council of the London Borough of Brent.

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Hard copies of all Case Law which had been referred to by the Local Planning Authority in their Statement of Case and Proofs of Evidence but not appended to them.
2. Additional Case Law referred to in the Local Planning Authority's closings: F.W. Gabbittas v. SSE and Newham LBC [1985] J.P.L. 630; Hill v SoSTLG [2003] EWHC 279 (Admin); Devine v SSLUHC [2023] EWCA Civ 601; R v Rochester-upon-Medway CC ex parte Hobday [1990] JPL 17; Eley v SSCLG [2009] EWHC 660 (Admin); and Panton & Farmer v Secretary of State for the Environment, Transport and the Regions (1999) 78 P. & C.R. 186.