



Appeal Decision

Site visit made on 14 July 2025

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 18 December 2025

Appeal Ref: APP/N5090/C/23/3330756

40 Chesterfield Road, Barnet, EN5 2RF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended)(the “Act”). The appeal is made by Mr Shpresim Malokou against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice was issued on 24 August 2023.
 - The breach of planning control as alleged in the notice is ‘without planning permission, the erection of an outbuilding, as shown edged in red in attached Image 01’.
 - The requirements of the notice are to:-
 1. Demolish the outbuilding.
 2. Permanently remove all constituent materials resulting from the works in 1. above from the property.
 - The period for compliance with the requirements is: 3 months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Act. 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.
-

Decision

1. 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 Act.

Applications for costs

2. An application for costs was made by the Council of the London Borough of Barnet against Mr Shpresim Malokou. This application is the subject of a separate decision.

Preliminary Matters

3. Since the appeal was registered, the Barnet Local Plan 2021-2036 (the LP) was adopted by the Council on the 4 March 2025. The LP replaces the 2012 Local Plan which comprised the Barnet’s Local Plan (Core Strategy) Development Plan Document (September 2012) and Barnet’s Local Plan (Development Management Policies) Development Plan Document (September 2012). I therefore sought clarification from the Council regarding policies which have been superseded, replacement policies and the application of any replacement policies to the appeal scheme. The appellant was provided with an opportunity to provide their comments on this matter.

Ground (a)

4. An appeal made on ground (a) is that planning permission should be granted for the breach of planning control stated in the notice.

Main Issue

5. Having regard to the reasons for issuing the notice, the main issue is the effect of the development on the character and appearance of the host dwelling and the surrounding area.

Reasons

6. The appeal site is located within a mainly residential area which is predominantly characterised by semi-detached and terraced dwellings of similar appearance and architectural form. Dwellings are set back a short distance from the highway with modest areas of garden to their front whereas to the rear, gardens are mostly generously sized and long. A clear build line exists which follows the line of the road and where side to side gaps between dwellings exist, the separation distance is mainly short and results in a dense arrangement of built form and a closely-knit feel.
7. In instances where a property occupies a corner plot, as is the case with the appeal dwelling, and their rear gardens include a side boundary to a neighbouring street, the rear garden area provides a gap and respite in the density of built form and allows for pleasant and open views across rear gardens towards trees and the rear elevations of dwellings. Rear gardens therefore make a positive contribution to the character and appearance of the area. Outbuildings constructed within rear gardens in the area generally tend to be domestic in scale and subservient to the dwellings they serve. Overall, there is a rhythm of built form and spaces. The open and spacious qualities of rear gardens make an important contribution to the distinctiveness of the locality.
8. The appeal dwelling is one of a pair of semi-detached dwellings positioned partway along Chesterfield Road, which occupies a prominent corner position at the junction of Sellwood Drive. The front of the property comprises a shallow front forecourt which is largely given over to hardstanding for the parking of vehicles. To the rear of the property is a generously sized and long area of garden which has been subdivided into a number of parts. An area of private amenity space adjoins a single storey extension constructed at the rear of the appeal dwelling. The amenity space is limited in size and enclosed with a solid boundary treatment of substantial height. A narrow walkway is positioned to the side of the enclosed private amenity space and the dwelling and provides access from the highway at the front of the property to the appeal building.
9. A vehicular access to the side of 26 Chesterfield Road provides a route to a number of garages positioned at the end of each dwellings' rear gardens. Although not accessible at the time of my visit, and only partially visible from Sellwood Drive above the boundary treatment, the rear garden of the appeal property also includes a further single storey building erected at the far end of the rear garden and in a position which broadly follows the build line of the neighbouring garages. The appeal building is therefore the second outbuilding to have been built within the rear garden of the host dwelling, a matter which has not been disputed by the appellant. As a result of the appeal outbuilding, the un-built area of the rear garden is substantially reduced in size and the remaining open garden area comprises only the limited area of private amenity space adjoining the rear extension of the appeal dwelling.

10. No drawing nor detailed measurements of the appeal building have been provided by the appellant. However, the appeal building is a substantial single storey structure which occupies a footprint of some 65 square metres, taking the Council's measurements, which have not been disputed by the appellant. It has been constructed within the rear garden of the appeal dwelling and occupies a position in close proximity to the rear boundary of the enclosed private amenity area adjoining the appeal dwelling. The building extends to fill the majority of the width of the garden plot and includes a significant depth. Taken together with its height, the upper part of the building is readily visible from Sellwood Drive above the existing boundary treatment from where it reads as an unduly bulky and obtrusive feature within the rear garden.
11. Barnet's Residential Design Guide Supplementary Planning Document (2016)(the "SPD") sets out, among other things, that back garden buildings should not be too large or significantly reduce the size of a garden to become out of character with the area and their design and materials should be in harmony with the surrounding area¹. However, by reason of its significant scale and bulk, the building appears as a dominant and discordant feature that fails to appear subservient to the host dwelling. Given its prominent position adjacent to the highway, the building stands out as a substantial and incongruous feature which is out of keeping with its garden setting.
12. The open and unbuilt extent of the rear garden is considerably reduced by the footprint of the building such that, notwithstanding the limited area of private amenity space adjoining the appeal dwelling, the excessive reduction of rear garden space results in the outbuilding appearing as an excessive development of the plot by reason of its excessive scale and bulk. The outbuilding is sited in a position which is far beyond the rear of the main build line of dwellings fronting Chesterfield Road and at a point which stands well forward of a number of garages/outbuildings that sit at the furthest point of rear gardens. Consequently, it fills an important gap within the rear garden and appears as an incompatible feature which fails to respect the pattern of built development and spaces within the surrounding area. Overall, I find it represents an overdevelopment of the site which is detrimental to the character and appearance of the appeal dwelling and the spaciousness of rear gardens thus diminishing local distinctiveness.
13. The appellant describes similar outbuildings featuring within the garden of 38 Chesterfield Road. However, the Council's records point to those buildings/structures having been constructed without planning permission albeit it is accepted that the passage of time may have resulted in those buildings being immune from enforcement action. Nevertheless, the presence of similar outbuildings that have led to the rear garden area being largely comprised of built form is contrary to the rhythm of built form and spaces and the open and spacious qualities of rear gardens which is the prevailing character and appearance of this part of Chesterfield Road. As such, this does not provide adequate justification for the appeal scheme.
14. Accordingly, I find that, by reason of its excessive scale and bulk, the building harmfully diminishes the established character and appearance of the host dwelling and the surrounding area. It is therefore contrary to Policy D3 of the London Plan (2021) insofar as it requires development proposals to enhance local context by delivering buildings and spaces that positively respond to local distinctiveness. It

¹ Barnet's Residential Design Guide Supplementary Planning Document (2016) Paragraph 14.40

also conflicts with LP Policy CDH01 insofar as new development should be of a high quality design that, among other things, responds sensitively to distinctive local character and design. In addition, the appeal scheme would conflict with the guidance of the Council's SPD, the requirements of which are set out above.

15. The Council's Reason for issuing the notice also cite a conflict with Policy HC1 of the London Plan (2021) which is concerned with heritage conservation and growth. However, the appeal site is not stated to be listed as, or within the setting of, a heritage asset nor is it situated within a conservation area. In addition, LP Policies GSS01, CDH04 and HOU03 have been provided by the Council as being relevant to the appeal scheme. However, Policy GSS01 sets out the Council's approach to delivering sustainable growth, Policy CDH04 concerns tall buildings of 8 storeys and above, or 26 metres and above ground level and Policy HOU03 concerns residential conversions and the redevelopment of larger homes. To my mind, these policies are not determinative to the appeal scheme.

Other Matters

16. I have had regard to the appellant's comments that they were misinformed by a third party regarding their obligations relating to the control of planning. While it seems, therefore, that the breach of planning control was not intentional, this does not weigh in support of the appeal scheme. Whilst the appellant also suggests they relied upon incorrect information regarding building control, issues regarding whether construction work complies with established building regulations and standards is not determinative to the appeal before me.
17. Whilst no adverse harm has been identified by the Council with regards to the amenities and living conditions of neighbouring occupiers, the absence of harm is a neutral matter that weighs neither for nor against a scheme.

Alternative Scheme

18. Section 177(1) of the Act allows for a grant of planning permission for the whole or part of the matters stated in the breach of planning control. The appellant has explained that they have halted construction of the outbuilding and are '*hopeful that they may be permitted to retain either the entire structure or a portion of the outbuilding they have erected*'. The appellant suggests they are willing to make modifications to the structure including an adjustment to the size and height and a revised design and they state that they are '*fully prepared to submit a comprehensive planning application to address this matter and eagerly awaits your review and feedback*'.
19. However, no drawing(s) of a revised scheme has been provided by the appellant to show what the building would look like, nor has any detailed information been submitted to explain the extent of the reduction of height and size. The appellant has failed to demonstrate that a revised scheme would overcome the harm to the character and appearance of the host dwelling and the surrounding area or that such a scheme would comprise part of the matters alleged.

Ground (f)

20. An appeal under ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by

those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.

21. Section 173(4) of the Act sets out the purposes of a notice are (a) remedying the breach by making any development comply with the terms of any planning permission, by discontinuing any use of the land or by restoring the land to its condition before the breach took place or (b) remedying any injury to amenity which has been caused by the breach. It is clear from the wording of the notice, that its purpose is to remedy the breach of planning control.
22. Under ground (f), I am obliged to give consideration to whether there is any obvious alternative, or lesser step, which would achieve the purposes of the enforcement notice with less cost and disruption rather than removal of the entire appeal scheme.
23. The appellant has suggested making modifications to the structure including an adjustment to the size and height and a revised design which I have already considered as part of the appeal under ground (a) above. However, no specific details nor detailed drawing(s) of a revised scheme has been provided and so, as set out above, it is not clear what such modifications would comprise, whether they would comprise part of the matters and if so, whether they would overcome the harm identified by the Council.
24. Although not specifically raised by the Appellant, I am mindful that the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)(GPDO) grants planning permission for buildings etc incidental to the enjoyment of a dwellinghouse. While the appellant states that they are open to making necessary adjustments to the structure's size and height to ensure compliance with development regulations, the appellant has not shown that the modifications suggested would bring the outbuilding in line with the provisions of the GPDO, or how the requirements of the notice should be framed so that the appellant knows what they have to do.
25. Since the breach of planning control alleged is the erection of an outbuilding, allowing it to remain would fail to remedy the breach.
26. Consequently, I find that there are no lesser steps which would achieve the purposes of the enforcement notice with less cost and disruption and so the appeal under ground (f) must fail.

Conclusion

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

E Brownless

INSPECTOR