



Appeal Decisions

Site visit made on 17 December 2025

by **R Hitchcock BSc DipCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2026

Appeal A Ref: APP/J4423/C/24/3354124

Appeal B Ref: APP/J4423/C/24/3354125

28 Cavendish Road, Sheffield, S11 9BH

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- Appeal A is made by Mr Shah Nawaz Khan and Appeal B by Mrs Nielam Khan against an enforcement notice issued by Sheffield City Council.
- The notice was issued on 24 September 2024.
- The breach of planning control as alleged in the notice is 'Without planning permission, unauthorised alterations and extensions to annexe building, provision of a boundary fence and gate'.
- The requirements of the notice are to: (i) Remove, or reduce to a height of 1m from ground level, the boundary fence which runs parallel to Cavendish Rd in the location marked with a blue line on the plan below. (ii) Remove, or reduce to a height of 1m from ground level, the vehicular access gate to Cavendish Road. (iii) Demolish and remove the unauthorised extensions and alterations to the Annex building. (iv) Following compliance with paragraph 5(iii) make good the annex building by either reinstating it to its original condition as shown in photograph (a) below, or building the extension as approved by planning permission 21/ 023384/FUL as shown on the approved plans below. (v) Clear from the land any waste materials arising from compliance with paragraphs 5(i)-(iv) above.
- The periods for compliance with the requirements are: Steps 5(i) and (ii) – 1 month; steps 5(iii)-(iv) – 9 months.
- The appeals are proceeding on the grounds set out in sections 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeals succeed in part and the enforcement notice is upheld with corrections and variations in the terms set out below in the Formal Decision.

Appeal C Ref: APP/J4423/D/24/3354169

28 Cavendish Road, Sheffield, S11 9BH

- 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 Shah Nawaz Khan against the decision of Sheffield City Council.
- The application Ref is 24/02204/FUL.
- The development proposed is 'amendments to two storey annex to the rear of the property, electric sliding gate, fence and landscaping'.

Summary Decision: The appeal is allowed in part and dismissed in part as set out below in the Formal Decision.

Decisions

Appeals A and B

1. It is directed that the enforcement notice is corrected and varied by:
 - the deletion of the words '1m' and 'parallel to' from requirement 5(i) of the Notice and their substitution with '2m' and 'perpendicular to the main carriageway of' respectively;

- the words ‘or altering the building to comply with the terms of planning permission 21/02338/FUL, dated 3 September 2021, including the conditions subject to which that permission was granted’ should substitute the existing wording after the comma in section 5(iv) of the Notice;
 - The period for compliance with paragraph 5(ii) is extended to 3 months.
2. Subject to the corrections and variations, the enforcement notice is upheld.

Appeal C

3. The appeal is dismissed insofar as it related to the two-storey annex and electric sliding gate. The appeal is allowed insofar as it related to the fence, shed and landscaping and planning permission is granted for the fence, shed and landscaping at 28 Cavendish Road, Sheffield, S11 9BH in accordance with the terms of the application, Ref 24/02204/FUL, and the plans submitted with it so far as relevant to those parts of the development hereby permitted and subject to the condition attached to this Decision.

Preliminary Matters

4. As set out above there are three linked appeals. They relate to the same site, and the same development save for a shed and landscaping additionally referenced in the planning application. The description appearing in the banner heading above for Appeal C is taken from the planning application form. However, the Council have used the more encompassing and detailed alternative description of ‘Alterations to two-storey annexe to the rear of the property, including changes to the appearance, size and mass of the annexe and alterations to the external cladding, erection of an electric sliding gate, fence, shed and landscaping (amendment to retrospective application 23/03030/FUL)’. The appellant in Appeal C uses the same description on their appeal form and statement. Consequently, I am satisfied that no party will be prejudiced by my use of it. I have proceeded on that basis.
5. Appeals A and B are identical in substance and against an enforcement notice requiring the removal or alteration of part of the development that had taken place when the Notice was served. As above, Appeal C seeks part retrospective planning permission for the gate, landscaping and a reduced height fence, and permission to alter the existing annex building through removal of the existing horizontal composite cladding and re-cladding with vertical natural larch boards. I deal with Appeal C first as this has implications for the grounds of appeal against the enforcement notice.
6. On 16 December 2025 the Government published a consultation on revisions to the National Planning Policy Framework (the Framework). The consultation continues until 10 March 2026. However, as the thrust of the policies relating to design and the conservation or enhancement of the historic environment remain, there was no need therefore to invite the parties to make further submissions on the draft policies.

The Notice

7. On an appeal any defect, error, or misdescription in an enforcement notice may be corrected using the powers available in section 176(1)(a) of the 1990 Act, or the

terms may be varied, where the correction or variation will not cause injustice to the appellant or local planning authority.

8. Through the attachment of a plan and photograph, the Notice clearly identifies the fence described in section 3 as constituting part of the alleged breach of planning control. However, step (i) of section 5 refers to the fence as running parallel to Cavendish Road. While it is unclear whether the driveway spur adjacent to the northeastern boundary of the site serves properties with a Cavendish Road address, or forms an adopted part of that highway, for the avoidance of doubt and consistency with the information contained in the plan attached to the Notice, this should be corrected to read 'perpendicular to the main carriageway of Cavendish Road'. Given the clear identification of the subject fence in the Notice, I do not consider injustice would arise if I were to make that correction.
9. The requirement in step 5(iv) provides an option to implement an element of a previously granted planning permission. While the main parties in the appeal will likely be familiar with the terms of the permission, a Notice must tell a recipient fairly what they must do to remedy a breach. Given the lasting effect of an enforcement notice and to avoid doubt, that requirement should include reference to the necessity to meet any terms and conditions associated with the planning permission. I am satisfied that correction to clarify the Notice would not cause injustice to the parties in the appeal.

Appeal C – the refusal of planning permission

Main Issue

10. The main issue is the effect of the development on the character and appearance of the locality and the Nether Edge Conservation Area (the CA).

Reasons

11. The site consists of a refurbished modern detached 2-storey dwelling set behind an enclosed front garden with private amenity space to the rear. The plot slopes down to a line of mature trees and shrubs set behind a front stone boundary wall. A 2-storey outbuilding is located to the rear side at the site's most northerly point and adjacent to a third-party driveway running the length of the north-eastern boundary.
12. The site lies within the CA which, in this part, is characterised by predominantly large, individually designed and mixed age detached dwellings in spacious plots. The buildings are set deep in their plots and behind characteristic stone walls and hedges. The frontages benefit from mature landscaping that, along with the low-density suburban housing area and broad streetscapes has an open, verdant character. The significance of the CA is derived from the architecture and historic development of the attractive residential area.

The gate to Cavendish Road

13. The site frontage overlaps with the junction of Cavendish Road and Lyndhurst Road. Along with part of the neighbouring property at 30 Cavendish Road, it provides the closing vista to those travelling northwest along Lyndhurst Road. The relatively wide splayed gated entrance opening features a single, solid, set back sliding gate constructed in a dark grey composite material.

14. In this part of the CA most entrances between the original stone frontage walls feature open iron railing swing gates. These allow glimpsed views into otherwise relatively private plots. There are more modern examples of solid timber gates also. Notwithstanding, the significant majority reflect a two post-mounted swing-gate opening in traditional materials.
15. Despite the gate's set back position, the single wide gate faced with modern materials contrasts starkly with the character and appearance of prevalent gated access points in the locality. The sliding mechanism is also distinct from the characteristic opening function. The gate appears incongruous in its setting.
16. In support of the retention of the gate the appellant highlights a number of variations to the traditional entrance gate form. Although these generally show paired timber swing gates, they are distinct from the gate erected and are examples in the minority.
17. The appellant asserts that there would be little perceptible difference between the gate as constructed and one which could be installed without planning permission. However, a reduction in height would reduce the conspicuous single solid area of modern facing material. In turn, this would have a more limited effect on the Cavendish Road streetscene and views across the junction from Lyndhurst Road. It would have a reduced effect on the character and appearance of the CA. Accordingly, I find the appellant's contention a matter of little weight in support of the development.

The Annex

18. The box form of the building, with large areas of blank elevation on three sides, is a distinct modern design. It has little relation to the classic Georgian-influenced form of the remodelled 1980's main dwelling. The contrasting form is currently amplified by the use of modern cladding materials in a contemporary colour. However, the proposed use of larch cladding to the upper elevations would match detailing on the main house. If allowed to weather naturally, a greyed timber would assist in reducing the building's visual prominence – being more recessive against the existing backdrop of foliage and similar in appearance to a weathered timber fence.
19. However, any benefit therein would be eclipsed by the combination of the building's scale and massing. As a curtilage building it is significant. Due to the lie of the land, the eaves height appears to compete with or exceed the eaves height of the dwelling. In conjunction with the contrasting form and visible elevated position it appears as backland development for all intents and purposes.
20. There are examples of large ancillary buildings in the CA. However, the limited examples that are visible from frontages are of traditional design to reflect the character of their corresponding principal building. They are predominantly of a much more subordinate scale. Rarely does the siting and scale dominate a main outlook at such close proximity. The annex is not therefore characteristic of the CA.
21. The building benefits from some screening afforded by stands of bushes to the side of the adjacent driveway. However, there is little to show that the land outside of the fence line is within the control of the appellant, or that it could be sufficiently enhanced to screen the development. Furthermore, some existing frontage

vegetation, which limits views to parts of the structure, is seasonal such that during colder months, the degree of prominence would be higher than at other times.

22. The enhancement of the frontage landscaping is unlikely to have a material effect on the views afforded along the side access from the street, those using it, or views from the neighbouring properties. Furthermore, the proposed reduction in the height of the side fenceline would not assist.
23. In support of the development, the appellant states that the modern design reflects the contemporary appearance of the main dwelling. While the remodelled dwelling includes updated modern finishes and detailing it retains a classically proportioned symmetric façade with even fenestration, a central entrance, and a hipped roof form typical of Georgian-influenced architecture. Those attributes are not present in the annex. In addition, the appellant has provided examples showing the mixed styles and ages of properties in the CA, particularly noting two flat-roofed modern designs. However, those architectural styles are stand-alone examples rather than ancillary structures. They are distinct from buildings designed and scaled for incidental uses.
24. For the purpose of Appeal A, the appellant has provided detail of an alternative scheme showing proposals amending the roof, fenestration and the external cladding of the annex in attempt to address the Council's planning concerns. As an alternative that is not a fundamental change to the appeal proposal and that the Council, and others, have had opportunity to comment through both a pre-application enquiry and/or the appeal proceedings, I find no procedural unfairness would arise by my consideration of it.
25. Although the proposed introduction of a pitched roof with lower eaves on part of the roof would alleviate some of the massing of the building, it would result in an overall height increase. It would appear as a design response necessitating an unbalanced fenestration amendment which together provide poor overall consolidation in the building's form and appearance. It would be equally prominent because of that discordant appearance, the retained scale, and the close proximity to the dwelling. Accordingly, I find that proposal would also fail to preserve or enhance the character or appearance of the CA.

The fence

26. The open line of the driveway to the side of no28 provides views of the plot's side boundary consisting of an original stone wall beyond the driveway verge and a modern spaced horizontal timber slat fence with wooden posts set behind. From the Council's initial assessment that parts of the erected side fence stood up to 2.4m high, the proposed plans show a reduced height and length along the north-eastern boundary. There is no dispute between the main parties that a fence below 2m height would not require planning permission in that location.
27. Although the appellant asserts that the northeastern boundary fence has been reduced to 2m the plans appear to show that parts of the fence on other boundaries would exceed the 2.0m height limit for means of enclosure as specified in Class A of Part 2, Schedule 2 of the Town and Country Planning (General Permitted development) (England) Order 2015 (as amended) (the GPDO). Notwithstanding, no party has objected to those sections. Unlike the northeastern boundary, those taller fences are/would be visually contained such that there

would be a neutral effect on the locality. For those reasons, I find the revised fence detail preserves the character and appearance of the CA.

Shed and Landscaping

28. A small domestic timber shed with a dual-pitched roof is located between the dwelling and the northeastern boundary. There is no dispute between the main parties that the scale and traditional construction of the building preserves the character and appearance of the CA. I find little reason to disagree with that conclusion.
29. The scheme includes planting to enhance the area behind the front wall and the eastern-most corner of the site. This would assist in providing some screening to the dwelling and enhanced privacy.
30. The Council is satisfied that a proposed revised layout and resurfacing of the driveway in bound resin would fall under permitted development rights under the terms of the GPDO. However, there is little detail of the construction of the driveway and extended frontage turning area. As development for which planning permission has been sought, and which encroaches towards a tree with deemed protection in the CA, additional detail of the surface's construction is necessary to ensure avoidance of adverse tree health effects and in the interests of securing sustainable surface water drainage. However, this is a matter which can be controlled by planning condition to meet the requirement in Paragraph 56 of the Framework.

Planning Balance

31. Under the duty imposed under s 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. For the reasons set out above, I conclude that the annex building and gate cause harm to the character and appearance of the CA to undermine its historic and architectural significance.
32. The Framework is clear at Paragraph 212 that 'great weight should be given to the asset's conservation'. The harm is no greater than 'less than substantial' in the context of Section 16 of the Framework, however, less than substantial harm does not equate to a less than substantial planning objection.
33. While I have found that more minor aspects of the development preserve the character and appearance of the CA, these do not outweigh the harm that I have identified arising from the annex and entrance gate. Furthermore, there are no public benefits of the development brought to my attention which would outweigh the harm to the heritage asset. Accordingly, I find the annex and gate conflict with saved Policies H14, BE5, BE16 and BE17 of the Unitary Development Plan, policy CS74 of the Core Strategy, paragraph 135 and Section 16 of the Framework as together they seek high quality design that responds to the scale, form, materials of construction, architecture and character of a development's context, and sustains or enhances the significance of heritage assets, including preserving or enhancing the character or appearance of the Nether Edge Conservation Area.

Other Matters

34. I note the concerns of nearby residents in relation to the potential use of the annex as a separate dwelling and the setting of a precedent. While occupation of the development could be controlled by planning condition, precedent is rarely an argument that should carry great weight in planning decisions which should be made on their own merits in the context of the development plan and other material considerations.

Conditions

35. As above, in the absence of detail of the construction of the hardstanding and in the interests of securing sustainable drainage and preserving the character and appearance of the CA, including through the protection of existing trees, a condition is necessary to agree a suitable construction for the hard surfaced parking and turning areas on the site frontage. I have consulted the main parties and considered their responses in that respect.
36. The condition is imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of the hardstanding before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.

Conclusion on Appeal C

37. For the reasons given above, the appeal should be allowed in part and dismissed in part.

Appeals A and B – the Ground (f) appeals

38. An appeal on ground (f) is that the steps required by the Notice to be taken exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity caused by the breach. Because the Notice seeks to either restore the annex building to its previous condition or make it compliant with the terms of a previously granted planning permission, the purpose of the Notice is to remedy the breach of planning control.
39. Contrary to the appellants' assertions, the Notice does not require the complete demolition of the building prior to a reinstatement, it only requires removal of unauthorised alterations and extensions. The corrected options for the alteration of the building would remedy the breach of planning control.
40. Notwithstanding, pursuant to my finding that the appellants' alternative annex scheme should not be granted planning permission under the s78 appeal, such variation to the Notice, if that were possible, would not remedy the breach of planning control.
41. However, following the Council's stated position that a fence not exceeding 2.0m high along the north-eastern boundary of the site would not require the benefit of planning permission in Appeal C, then the requirement at step 5(i) to reduce the height of the fence to 1m must exceed what is necessary to remedy the breach of planning control. Notwithstanding that the appellants can rely on the permission

granted under Appeal C and the provisions of s180 of the Act, the Notice should be corrected in the event that the permission is not implemented. The ground (f) appeal succeeds to that extent.

Appeals A and B – the Ground (g) appeals

42. This ground of appeal is that the period for compliance specified in the notice falls short of what should reasonably be allowed. The appellant seeks a period of 12 months to source a contractor and order materials.
43. In balancing the public and private interests bound up in this case, I find that the period of one month for the removal or reduction in height of the gate should be extended to 3 months as this is likely to require a specialised contractor. However, the timescales are otherwise reasonable and should be sufficient to comply with the Notice's requirements. The appeal on ground (g) succeeds to the extent that the time for compliance with step 5(ii) is extended to 3 months.

Conclusion on Appeals A and B

44. For the reasons given above, I conclude that the requirements of the notice are excessive to remedy the breach of planning control in relation to the height of the northeastern boundary fence and the period for compliance with the notice falls short of what is reasonable in regard to step 5(ii) relating to the access gate. I shall correct and vary the enforcement notice prior to upholding it. The appeals on grounds (f) and (g) succeed to that extent.
45. Although I have granted planning permission under Appeal C for part of the development referred to in the Notice, the Notice will stand and the appellants may rely on s180(1) of the Act which provides that where, after the service of an enforcement notice, planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as it is inconsistent with that permission.

R Hitchcock

INSPECTOR

Condition to planning permission ref. 24/0224/FUL granted in respect of a shed, fence and landscaping.

- 1) The resurfaced and extended driveway/turning area hereby permitted shall be removed and all materials brought onto the land for the purposes of such shall be removed within 2 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 2 months of the date of this decision a scheme for the construction of the extended driveway/turning area shall have been submitted for the written approval of the local planning authority and where additional work is required the scheme shall include a timetable for its implementation.
 - ii) If within 4 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

END.