



Appeal Decision

Site visit made on 22 January 2026

by Zoë Franks, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 13 February 2026

Appeal Ref: APP/M5450/C/24/3347748

59A Merlin Crescent, EDGWARE, HA8 6JB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Khalid Hussain against an enforcement notice issued by the Council of the London Borough of Harrow.
- The notice was issued on 12 June 2024.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised construction of an outbuilding in the rear garden (shown hatched on Plan 2) and the use of the land for business storage (use class b8) (outlined blue on Plan 2) ("the Unauthorised Development").
- The requirements of the notice are: 1. Cease the unauthorised use of the Land for Business storage (B8); 2. Demolish the unauthorised development; 3. Remove from the Land all materials and debris arising from compliance with the aforementioned requirements of the notice.
- The period for compliance with the requirements is 2 calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (d), (f), (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.

Decision

1. The appeal is allowed insofar as it relates to the operational development consisting of the construction of an outbuilding and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended), for the construction of an outbuilding at the rear of 59A Merlin Crescent, Edgware, HA8 6JB.
2. The appeal is dismissed and the enforcement notice is upheld insofar as it relates to the use of the land for business storage (B8) and planning permission is refused in respect of use of the land for business storage at the rear of 59A Merlin Crescent, Edgware, HA8 6JB on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Ground (b)

3. An appeal on ground (b) is on the basis that the alleged breach of planning control has not happened as a matter of fact. The address of the appeal site is 59A Merlin Crescent which is the ground floor dwelling which faces onto Merlin Crescent. The appeal site and the ground floor flat originally formed a single planning unit. However, a material change of use has occurred because the appeal site is no longer used by the occupiers of the flat, but by the appellant to store his belongings and work equipment whilst he occupies a separate residential property elsewhere. As the appellant no longer lives in the flat and the storage is not ancillary to that residential use new planning unit has been created.

4. The appellant also accepts that the original outbuilding was replaced by him, and it cannot therefore be argued that the new garage was not constructed as a matter of fact, irrespective of whether it was a replacement.
5. The appeal on ground (b) does not succeed.

Ground (d)

6. The appellant argues that at the time the notice was issued it was too late to take enforcement action against the matters stated in the notice. The appellant must prove that the material change of use took place more than 10 years, and the operational development more than 4 years, before the date of the issue of the notice.
7. The appellant has not given the specific dates on which the new garage was constructed, but has provided photographs which indicate that it must have happened between April 2018 and 2021. As the notice was issued on 12 June 2024, the appellant's own evidence is not sufficiently clear and precise to prove on balance that the replacement building was substantially complete more than 4 years before that date.
8. Similarly, the appellant does not live in the flat at No.59A now but has not provided details regarding when he did live there, or if he has used the garage in the same way throughout his period of ownership. It is therefore not possible to ascertain when the material change of use occurred, or whether the use has continued substantially uninterrupted for a period of 10 years.
9. It is for the appellant to prove their case on the balance of probabilities in order to succeed on this ground of appeal. The appellant has not provided sufficiently clear and precise evidence regarding when either the operational development was substantially completed, or when the material change of use took place, and the appeal on ground (d) does not succeed.

Ground (a) and the deemed planning application

10. The material change of use of the appeal site has created a new planning unit as the storage is no longer ancillary to the residential use of the flat at No.59A. The main issues are the effect of the development on the character and appearance of the area, and the living conditions of occupiers of neighbouring properties.
11. The appeal land is located in a residential area, in land which was previously the rear garden of No.59A, which adjoins other residential plots and a narrow access road which leads to the small cul-de-sac of Newgale Gardens. There was previously a garage in the same location on the land but it was smaller, both in terms of footprint and height. The current garage is a single storey building with a flat roof which is light in colour overall. It has a roller shutter facing onto the highway and a separate door which opens into the site. It is located on the edge of the site and its side wall adjoins the driveway of No.10 Newgale Gardens.
12. The material change of use of the land to business storage causes harm because it introduces additional vehicles, and comings and goings into the small road and cul de sac of Newgale Gardens which are not associated with the residential use. Whilst the appellant states that he only visits the garage several times a week, the grant of a B8 use would not be restricted and could be used with greater commercial storage, increased visits and indeed by more or larger vehicles.

13. The nature of a commercial storage use is materially different to a storage use which is ancillary to a residential use, and causes harm to the character and appearance of the area. As garden development it is in conflict with Core Policy CS1 B Local Character of the Harrow Council Core Strategy, February 2012,(The HCCS”) because it would harm the character of the suburban area. It is also in conflict with Policy DM1 of Harrow Council Development Management Policies July 2013 and Policy D3 of The London Plan 2021 which seek to deliver good design which responds to the existing character of a place, in this case the residential character of the area.
14. The appellant has requested that consideration be given to whether the building could remain if the commercial use were to be found unacceptable. Section 177(1) of the 1990 Act provides that permission may be granted in relation to the whole or any part of the alleged breach of planning control, and so there can be a split decision on a ground (a) appeal where the development is clearly severable. I am satisfied that the notice is drafted to refer to two clear breaches, but that the operational development which is the new building is part of the matters alleged in the notice. It can be considered as a stand-alone development.
15. The garage building is larger than the building it replaced, but it is still a one storey building with a flat roof, and located in a similar location on the appeal site. The property at No.10, which is the adjoining building and whose occupiers will be most affected by it, is set back from the highway with a long open front garden. The new outbuilding does not abut or adjoin the house at No.10, and does not contain any openings which would contribute to overlooking. As such, the garage building does not cause harm to living conditions of the occupiers of No.10, or the character and appearance of the area as it does not appear out of context or any different from the many other examples of residential outbuildings in the vicinity.
16. The ground (a) appeal in relation to the outbuilding is therefore successful and the deemed planning application is granted for it.
17. For the reasons given above I conclude that the appeal should succeed in part only, and I will grant planning permission for the outbuilding in the rear garden, but otherwise I will uphold the notice and refuse to grant planning permission in respect of the use of the land as business storage (B8). The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of section 180 of the 1990 Act (as amended).

Ground (f)

18. This ground of appeal has been dealt with in conjunction with the ground (a) above.

Ground (g)

19. The appellant seeks an extension of the compliance period. However, as the garage will remain and there is no requirement for building works, the period of 2 months for the use to cease is proportionate and the appeal on this ground fails.

Zoë Frank

INSPECTOR