



Appeal Decision

Site visit made on 20 January 2026

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

an Inspector appointed by the Secretary of State

Decision date: 18 February 2026

Appeal Ref: APP/A5270/C/23/3334886

Flat 2, Treetops House, Rosebank Way, Acton, W3 6TY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Jonathan OBrien against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The notice was issued on 9 November 2023.
 - The breach of planning control as alleged in the notice is without planning permission: the erection of an external staircase, decking and balustrading around the flat roof and the erection of a first floor extension.
 - The requirements of the notice are to:
 1. Remove the first floor extension;
 2. Remove the external staircase, decking and balustrading; and
 3. Remove all resulting materials, debris and rubbish from the land.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) 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 dismissed and the enforcement notice is upheld.

Preliminary Matters

2. Whilst I note the appellant's request, it is beyond the scope of this appeal, made under s174 of the 1990 Act, to review the original planning permission¹ granted for the property in 2017, so that his summer house project be considered lawful under Ealing Development Management - Development Plan Document (DPD) and the London Plan. Nevertheless, as a ground (a) appeal has been made, I have considered whether planning permission ought to be granted for the matters stated in the notice, namely, the erection of an external staircase, decking and balustrading around the flat roof and the erection of a first floor extension.

The Appeal on Ground (a)

Main Issues

3. The main issues are the effect of the development on:
 - the character and appearance of the area; and
 - the living conditions of the occupiers of neighbouring properties, with particular regard to outlook, privacy and light.

¹ Ref: 171643FUL dated 6 October 2017

Reasons

Character and appearance

4. Treetops House comprises an unconventional, part two storey, part single storey residential development accommodating two flats, positioned to the side and wrapping around part of the rear of a five storey block of flats on Rosebank Way, known as Erne House. The appeal relates to Flat 2, which in its pre-existing form was single storey.
5. Due to the intervening built form, the extension and associated operations cannot be seen from Rosebank Way. However, because the extension and balustrading are positioned at first floor level, it can clearly be seen from the A40. Here, in approaching views from the south, the development is primarily seen against a backdrop of five and six storey blocks of flats. From the east, views also encompass the larger blocks of flats to the west.
6. Treetops House therefore already appears as somewhat of an anomaly in that context. Nevertheless, it has evidently been designed having regard to the constraints of the site and views of the single storey Flat 2 would have previously been limited from the A40 by the roadside bridge enclosure, whereas now the first floor extension and balustrading are clearly seen above it. Those features will also be clearly seen from the rear of neighbouring flats.
7. I appreciate that the appellant has sought to make sure the extension would blend in with the host building and its surroundings, but its timber construction relates poorly to the render and brick building to which it is attached. Indeed, it is understandable why the appellant refers to the extension as a summerhouse, as it has the general appearance of an outbuilding which would normally be found in a rear garden suburban setting, rather than prominently sited on the roof of an existing development in a busy urban location such as this, where it appears unduly prominent and incongruous.
8. I therefore find that the development results in unacceptable harm to the character and appearance of the area, contrary to London Plan Policy D3 and DPD Policy 7.4. Those policies state, amongst other things, that developments should complement building patterns, scale, materials and detailing.

Living conditions

9. As a result of the extension, the appeal property presents a largely blank elevation of two storey scale and massing towards the rear of the flats in Erne House, at very close proximity. Consequently, the outlook from the lower rear windows of the flats towards the eastern side of the block will be dominated by a mass of built form in a way that is overbearing and creates an undue sense of visual confinement.
10. The rear windows to the flats towards the western side of the block will be less affected, as the enlarged building does not extend across the face of them. Nevertheless, the extension will have a significant presence in the outlook from the windows of those flats, given its size and siting.
11. Moreover, given its size, proximity and orientation to the south of Erne House, the extension will inevitably result in a significant loss of light as well as an

overshadowing effect on the lower flat windows, particularly those towards the eastern side of the block.

12. The most affected, ground floor window is not frosted. Whilst the first floor window above is partly frosted, future occupants may wish to change that. In any case, occupants would still experience loss of light entering the room, whether the window is frosted or not.
13. The use of the outside space to the rear of Erne House, which is used by occupants of the flats for amenity purposes, is also likely to be significantly affected by the development, both in terms of outlook and loss of light. The value of that space will therefore be unduly compromised.
14. Moreover, the elevated vantage point to the side of the first floor extension allows for significant overlooking into the habitable room windows of the flats in Erne House, as well as the first floor bedroom of Treetops Flat 1. Whilst I saw that the screen fencing acceptably mitigates the resultant loss of privacy, that comes at the cost of adding additional mass to the appeal property, as perceived from those neighbouring dwellings.
15. The external stairs to the roof level development also provides a clear vantage point to look towards the windows in the rear of Erne House. As those windows are already likely affected by users of the fire escape stairs, the harm arising is not sufficient to withhold planning permission on that issue alone. Nevertheless, it does add to the above identified harms.
16. I note the effects on what are described as balconies to the rear of Erne House, but their primary purpose appears to be as a fire escape landing, rather than for amenity purposes.
17. Nevertheless, for the reasons explained, the appeal development results in unacceptable harm to the living conditions of neighbouring occupants, contrary to London Plan Policies D3 and D6 and DPD Policy 7B. Those state, amongst other things, that new development must achieve a high standard of amenity for adjacent uses.

Other Matters

18. I note the appellant's concerns over the Council's approach to its enforcement proceedings, but those are not matters for this appeal which I have considered afresh, having regard to all of the evidence before me and my own site visit. Moreover, for the avoidance of doubt, whether the development is described as an extension or a summerhouse, makes no difference to my above conclusions.
19. I note the submissions made by a neighbour in Erne House, but matters relating to the structural integrity of the extension are covered by other legislation. Moreover, as explained in the Planning Practice Guidance, the courts have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests, such as the impact of a development on the value of a neighbouring property, cannot be a material consideration.
20. The appellant has highlighted his concerns regarding anti-social and violent incidents in the area, including the undoubtedly distressing murder case not far from his property. He explains that as a family with a young child he decided to

build the extension as a safe and welcoming space for his children to spend their spare time, and to that end, I saw that its primary use is as a games room.

21. I therefore understand the appellant's security concerns and the importance of the development to him and his family. However, the property provides alternative secure external amenity space, albeit uncovered. Therefore, whilst I appreciate how disappointing my decision will be to the appellant, I find that the benefits advanced do not outweigh the harms I have described above.

Conclusion on Ground (a)

22. For the reasons given above, I conclude that the matters stated in the notice are contrary to the development plan as a whole, and that material considerations do not indicate that the appeal should be determined otherwise than in accordance with the development plan. The ground (a) appeal should not therefore succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under s177(5) of the 1990 Act as amended.

The Appeal on Ground (f)

23. An appeal on ground (f) is that the requirements of the enforcement notice are excessive to remedy the breach of planning control or, as the case may be, the injury to amenity caused by the breach.
24. In this case the breach is the erection of an external staircase, decking and balustrading around the flat roof and the erection of a first floor extension. The requirements are to remove those operations and all resulting materials. The purpose of the notice must therefore be to remedy the breach of planning control. Accordingly, the appeal on ground (f) can only succeed if it is shown that the steps set out in the notice are excessive for that purpose.
25. To that end, the appellant has not shown that there are any other lesser steps that would remedy the breach of planning control and I find that the requirements of the notice tally and logically follow from the breach and are not excessive for the purposes of remedying the same.
26. The appeal on ground (f) fails.

Richard S Jones

INSPECTOR