



Appeal Decision

Site visit made on 20 January 2026

by **M. P. Howell BA (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 FEBRUARY 2026

Appeal Ref: APP/C5690/C/24/3342757

11 Dunkery Road, London SE9 4HX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Meir Abovitz (MA1 Estates Ltd) against an enforcement notice issued by the Council of the London Borough of Lewisham.
- The notice was issued on 19 March 2024.
- The breach of planning control as alleged in the notice is the erection of a wrap-around extension to the side and rear of the property without planning permission and the unauthorised erection of a 3m rear boundary treatment to the western side of the property.
- The requirements of the notice are to:
 1. Completely remove the wrap-around extension erected to the side and rear of the property, reverting the property to its original appearance before any construction work was undertaken
 2. Reduce the height of the western boundary treatment to no more than 2m in height.
 3. Make good all damage resulting from the compliance with the requirements of this notice.
 4. Remove all materials, debris, waste and equipment resulting from compliance with the above requirements of this notice from the land.
- The period for compliance with the requirements is: 6 (six) 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.

Summary Decision: The appeal is dismissed, and the enforcement notice is upheld with variations.

Matters Concerning the Enforcement Notice

1. It is incumbent upon me to put the Enforcement Notice (Notice) in order. I have had regard to my powers under section 176(1)(a) of the Town and Country Planning Act 1990 (1990 Act) to correct any defect, error or misdescription in the Notice or, under section 176(1)(b), to vary the terms of the enforcement notice. In each case, the test is whether the correction or variation would not cause any injustice to the appellant or the Council.
2. In paragraph 4, following the three stated reasons the Council believes it is expedient to issue the Notice, it states, 'The Council does not consider that planning permission should be granted following two refused related planning applications, as planning conditions could not overcome the objections to the development.' The appellant highlighted in their Statement of Case that this is an error, and that they are unaware of any refused applications.
3. Upon reviewing the submissions there is no evidence of two refused related planning applications concerning the proposed single-storey wrap-around extension and a 3m boundary treatment at the property. Considering this, and my duty to get the Notice in order, I invited comments from the Council on this statement. The Council confirmed it was an error, and on this basis, I invited both parties' views on whether this could be varied without causing injustice to either party.

4. Although the statement that planning applications have been submitted and refused is an error, it does not alter the nature of the alleged breach nor the reasons why the Council considered it expedient to take formal action. The error has also not prevented the appellant from making the appeal on ground (a) or any other grounds. Therefore, I am satisfied that this is a situation where I can use my powers to vary the Notice for greater clarity without inflicting injustice on either party. As such, I will delete this statement from the Notice.
5. Further to the above, there are also some unnecessary words that can be deleted from the requirements to provide greater clarity to the appellant, without making them more onerous. In paragraph 5, step 1, the word 'completely' can be deleted as it is unnecessary. Furthermore, the word 'original' can also be deleted. Although not expressed as an issue by the appellant, it is necessary to clarify that the property would only need to be restored to its condition before the breach took place. Although the original appearance of the property could be the same as its previous condition, it could also be different. As such, deleting this word would help to provide certainty as to what must be done to remedy the breach.
6. To clarify, in paragraph 4, I will delete the sentence, 'The Council does not consider that planning permission should be granted following two refused related planning applications, as planning conditions could not overcome the objections to the development.' In paragraph 5, step 1, I will delete the words 'completely' and 'original.'

Preliminary Matters

7. The appellant has put forward in their Statement of Case that the retention of the wrap-around extension and boundary treatment can be considered alongside proposed steps, illustrated on the floorplan on Figure 7, Page 13 of the Statement of Case. I am satisfied that I can consider the retention of the wrap-around extension and fence as they form part of the matters alleged in the Notice. However, the proposed steps are not a development that forms part of the matters alleged in the Notice and cannot be considered as part of the ground (a) appeal.
8. Furthermore, although it is possible to allow mitigation measures associated with new development as part of an alternative scheme, when grounds (a) and (f) have been pleaded, the proposed steps lack sufficient details for consideration. The information provided is an extracted image of a floor plan, which does not include the wrap-around extension but instead illustrates the proposed steps alongside a previously approved rear ground-floor extension. This error, together with an absence of a comprehensive set of plans for the proposed steps means they cannot be adequately evaluated. Consequently, insufficient detail has been submitted for me to have regard to this proposal when determining the appeal.
9. Following my site visit, it was noted that the 3m rear boundary treatment alleged in the Notice was not present to the rear as indicated in the submissions. However, section 174(2) of the 1990 Act states that ground (a) may be brought on the basis that any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The appellant has not made an appeal on ground (b), as such, I have taken it that the enclosure was present when the Notice was issued but has since been removed. As it is alleged as part of the matters, I will have regard to it when considering the appeal.

10. During the course of the appeal, the government published a consultation National Planning Policy Framework, which sets out changes to the existing National Planning Policy Framework 2024 (the Framework), and accompanied by a Written Ministerial Statement. As the proposed reforms are in draft and may be subject to change before the final document is published, I have given them only limited weight at this stage. Having regard to the determining issues of this appeal, it has not, therefore, been necessary to consult the parties on the changes and, in reaching my decision, I have had regard to the existing Framework when making my decision.
11. Since the decision to issue the Notice was made, the Lewisham Local Plan 2020-2040 was adopted by the Council in July 2025 (Local Plan). This replaces the Lewisham Core Strategy 2011, and the Lewisham Development Management Local Plan 2014 documents and their policies, such that the policies cited on the Notice are no longer part of the development plan and have no weight. Therefore, the main parties were given time to provide observations on the changes to the Local Plan, and I have considered the relevant replacement policies highlighted.

The Appeal on Ground (a) and the Deemed Planning Application

12. The **main issues** in the appeal are:
 - The effect of the development on the character and appearance of the area.
 - The effect of the development on the living conditions of the occupants of 9 Dunkery Road, having regard to outlook and light.

Reasons

Character and Appearance

13. The appeal site is an end of terrace residential property located towards the western end of Dunkery Road. The appeal site is finished in painted red brick and render with a projecting bay window, which is largely consistent with the features and finishes present in the terrace block. Despite alterations in the form of dormers and rear extensions, the rear of the terrace also maintains a consistent form and appearance. The terraced properties on either side of Dunkery Road include generous plots, are predominantly set back from the road behind driveways and gardens which are open or include low lying enclosures. The consistent setback from the road, together with generous plots as well as cohesive design features and finishes, results in a pleasant character and appearance to the area.
14. Policies QD2, QD7, QD8 and QD9 of the Local Plan seek to ensure that all new residential development is of a high quality design, which is responsive to context. They require alterations to respect the scale, proportions, detailing and architecture of the host building. Paragraph 4.2 of the Alterations and Extensions Supplementary Planning Document (Extensions SPD) sets out guidance for rear extensions. Paragraph 4.2.2 indicates that if rear extensions are excessively large and poorly designed, they can be harmful to the appearance of the host building, can reduce usable garden space for existing and future residents, and can be overbearing for neighbours, reducing their daylight and/or outlook.
15. The wrap around extension is slightly wider than the rear of the property to wrap around the side and finishes in line with the existing front porch. A gap of around 1-2m exists between the side elevation of the wrap around extension and the side

boundary of 13 Dunkery Road. The rear element projects approximately 5m from the rear elevation of the host property along the party boundary with 9 Dunkery Road.

16. The extension is excessively tall for a single storey extension, and when combined with its width, depth and flat roof design, the extension appears as an excessively bulky addition to the terraced property. The rear flat roof extension stands out as a discordant, box-like structure, overwhelming the proportions of the original dwelling at the rear. Furthermore, the side element of the wrap around is notably lower in height than the rear section. This results in an awkward transition between the rear section and the lower side extension, creating a clumsy appearance where the side and rear elements of the wrap around extension meet and do not harmonise.
17. Additionally, the change in levels from the extension to the lower garden level intensifies the visual impact of the structure. While steps to the rear could provide safe access, they would not alleviate the poor proportions and unusual height of the extension, which becomes particularly pronounced when viewed from the lower garden setting. The extension is also visible from wider public viewpoints from Henry Cooper Lane, Wicks Close and Marvels Lane. Although not overly prominent, it is visible, and its scale, height and design detract from both the character of the host property and the immediate surroundings.
18. In respect of the party boundary fence, from what I saw, there are a mixture of fences and walls, which typically range from 1 to 2 meters high at the back, which step down with the lower levels of the garden. As such, a boundary fence is acceptable in principle, but at 3m high, the fence would appear incongruous with typically lower boundary enclosures in the immediate residential context.
19. Accordingly, the development has an adverse impact on the character and appearance of the host dwelling and area. The development conflicts with Policies QD2, QD7, QD8 and QD9 of the Local Plan, Policies D1 and D3 of the London Plan and the advice and guidance within the Extensions SPD, which amongst other things, promote high standards of design, which is responsive to context, to ensure that the scale and design of development is compatible with the character and appearance of the host property and the wider area.

Living Conditions of Neighbours

20. Policies QD7, QD8 and QD9 of the Local Plan, amongst other things, seek to ensure that development does not harm the amenity of neighbouring occupiers, including issues relating to outlook, light, privacy and being overbearing. As indicated above, the Extensions SPD advises that excessively large and poorly designed rear extensions can be overbearing for neighbours, reducing their daylight and/or outlook. It also goes on to advise that an extension should not significantly overshadow neighbouring habitable room windows or private gardens to an unacceptable degree.
21. The distance of the extension from the adjoining neighbour at 13 Dunkery Road, together with the recent extensions to this property, mitigates the potential impact of the development on the neighbour's living conditions.
22. However, the proximity, height, depth, and design of the extension—3.6 meters along the boundary with 9 Dunkery Road for approximately 5 meters—create significant issues. The blank side wall runs along the boundary and significantly impacts the outlook and natural light received by the ground-floor sliding doors that lead to a rear living room, as well as the raised patio area just outside those doors. In

my judgement, the extension diminishes the living conditions for the neighbouring occupants by overshadowing these spaces and limiting their outlook. I recognise that the extension steps away from the boundary near the neighbour's sliding doors. However, this step back does not mitigate the negative impacts on light and outlook for the neighbouring property that I have described.

23. Although the 3m boundary enclosure had been removed by the time of my visit, the position of the high enclosure along this same boundary would have exacerbated the overbearing impact on the neighbour's raised patio area.
24. I therefore conclude that the proposed development has a detrimental impact on the living conditions of the occupiers of 9 Dunkery Road, with regard to outlook and light. The development fails to accord with the objectives and guidance of Policies QD2, QD7, QD8 and QD9 of the Local Plan, Policies D1 and D3 of the London Plan and the Extensions SPD, which seek to protect the living conditions of neighbours. There would also be conflict with the Framework, which requires development to create places with a high standard of amenity for existing users.

Other Matters

25. The appellant has highlighted that the Council has historically approved a rear single storey extension, together with allowing a separate Lawful Development Certificate for a dormer and extension to an existing garage to the side of the property¹.
26. I have had regard to these approvals, and despite the appellant indicating that both permissions were implemented, there is limited evidence before me to demonstrate that the rear extension and side extensions were undertaken before the wrap around extension subject of the Notice was erected. Nonetheless, even if the permissions were implemented, the separate extensions, together with the reduced height, would have been less harmful to the character and appearance of the property and living conditions of the neighbour. As such, comparatively, the fallback extensions are not as harmful as the development subject of the Notice, and do not provide justification for the approval of the wrap around extension erected on site.
27. The appellant also refers to a consultation on amending the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) to permit the construction of wrap around single storey extensions. Although I am aware of the consultation, no amendments have been made to the Order at the time of writing this decision. As such, I have given this limited weight in favour of the appeal.

Planning Balance and Conclusion on Ground (a) and Deemed Planning Application

28. The development makes effective use of a property in an urban area, providing greater floorspace for the occupants in line with the objectives of the Framework. Whilst I attribute these benefits modest weight in the overall planning balance, they do not outweigh the harm to the character and appearance of the property and immediate area, as well as the neighbour's living conditions, contrary to the development plan policies and the Framework. I give the harm identified, and the conflict with the development plan policies significant weight in my decision.
29. For the reasons given above and taking into account the development plan as a whole and all other relevant material considerations, I conclude that the ground (a)

¹ Council references DC/20/115515 and DC/21/122127

appeal should be dismissed and the application, deemed to have been made under section 177(5) of the 1990 Act as amended, should be refused.

The Appeal on Ground (f)

30. An appeal has been made on ground (f), asserting that the requirements outlined in the Notice exceed what is necessary. For this appeal to succeed, it must be demonstrated that the steps mandated for compliance with the Notice surpass what is necessary to rectify the breach of planning control or to mitigate any amenity impact resulting from that breach.
31. Under Section 173 of the 1990 Act, two objectives can guide the requirements of an enforcement notice. The first, as described in section 173(4)(a), is to correct the breach of planning control. The second, outlined in section 173(4)(b), aims to rectify any harm to amenity caused by that breach. In this case, the first step of the Notice requires the removal of the wrap-around extension and the restoration of the property to its previous condition. Thus, the primary purpose of the Notice is to remedy the breach of planning control, consistent with the objectives in section 173(4)(a) of the 1990 Act.
32. The appellant contends that before the wrap-around extension was built, the Council had granted planning approval for a rear extension in 2021, as well as a Lawful Development Certificate (LDC) for a side extension and roof extensions in 2020. I will refer to these as the '2021 rear extension' and the '2020 LDC extensions'. The appellant maintains that these approvals were implemented, and the requirements should be varied to include an option to comply with these approved schemes.
33. When a Notice addresses a development that deviates from an approved scheme, it can stipulate that the development be either removed or altered to conform to the approved planning permission. However, to modify the requirements of a Notice so that the appellant could either take down the extension or adhere to the approved scheme, I must be assured that these permissions are still valid and can be executed within their specified conditions and limitations.
34. While there is an indication that the 2021 rear extension was implemented, the appellant has not provided evidence to detail when it was initiated. As such, insufficient evidence has been provided to establish that the 2021 rear extension was initiated in accordance with its conditions—specifically, whether it was initiated within three years of approval- which expired on 20 August 2024. As such, if I were to modify the Notice based on the assumption that the 2021 rear extension had been initiated, when it has not, the appellant would not be able to comply with this requirement. Consequently, based on the evidence before me, I am unable to vary the requirements in this manner.
35. With regard to the 2020 LDC extensions, it is important to acknowledge that obtaining an LDC for a proposed development does not grant express permission. Instead, it serves to confirm, in legal terms, that the proposal qualifies as a deemed permission, provided it adheres to all the limitations and conditions set out in the relevant Order. That permission is only, therefore, crystallised when it is built in accordance with the proposed details agreed to be lawful. It is also important to note that Article 3(5) of the Order stipulates that permissions granted under Schedule 2 do not apply if, in the case of a permission concerning an existing building, the building operations involved in the construction of that building are unlawful.

36. In this context, while it is acknowledged that the Council approved the 2020 LDC extensions after consideration of the Order, there is insufficient evidence in the appeal to demonstrate that the side extension to the existing garage was constructed before the unauthorised wrap-around extension works were undertaken. Consequently, the appellant cannot retrospectively claim permitted development rights for any portion of the development that has already been carried out. Therefore, varying the requirements to allow the appellant to substitute the unauthorised wrap-around extension with the side extension would not resolve the breach of planning control, which is the purpose of the Notice.
37. Furthermore, even if both permissions could be implemented, I would need to vary the requirements in a manner that clearly states the necessary steps to remedy the breach. The appellant has proposed that the Notice should be varied to require compliance with the two consents, but the plans submitted for my consideration contain inconsistencies. For instance, the plans for the 2020 side extension do not encompass the rear extension, while the approved rear extension plans omit the existing rear dormer and the side extension. As such, varying the Notice to include an option to comply with the 2021 rear extension and 2020 LDC extensions is not possible without introducing some uncertainty regarding the actions the appellant would have to take to rectify the breach.
38. In my judgement, the steps required by the Notice are appropriate and necessary to remedy the breach of planning control, and I cannot vary the requirements of the Notice to include an obvious alternative that unambiguously details what actions must be taken to address the breach.
39. Accordingly, the appeal on ground (f) fails.

Conclusion

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

Formal Decision

41. It is directed that the enforcement notice is varied by:

In paragraph 4 under “Reasons for Issuing the Notice,” delete the words, ‘The Council does not consider that planning permission should be granted following two refused related planning applications, as planning conditions could not overcome the objections to the development.’

In paragraph 5, step 1, delete the words ‘completely’ and ‘original.’

42. Subject to the variations, 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.

M. P. Howell

INSPECTOR