
Appeal Decision

Site visit made on 14 February 2026

by **A U Ghafoor BSc (Hons) MA MRTPI FCMi fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 9th March 2026

Appeal Ref: APP/M5450/C/24/3341908

115 & 117 Kingsley Road, South Harrow, Harrow HA2 8LF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the “1990 Act”).
- The appeal is made by Mr Mohammed Intikhab Khan against an enforcement notice issued by the Council of the London Borough of Harrow.
- The enforcement notice was issued on 4 March 2024.
- The breach of planning control as alleged is the construction of a ground and first floor side extension.
- The requirements of the enforcement notice are to 1) Demolish the Unauthorised Development 2) Make good any damage caused to the buildings as a result of the above step, and 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 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (e), (a), (f) and (g) of the 1990 Act.

Summary of Decision: The appeal succeeds in part and permission for that part is granted, but otherwise the appeal fails, and the enforcement notice is upheld in the terms set out below in the Formal Decision.

Ground (e)

1. In pursuing an appeal on this ground, the appellant needs to show, on the balance of probability, that copies of the issued notice were not served as required by s172 of the 1990 Act. Sub-section (2)(a)(b) state a copy of a notice shall be served on the owner, occupier and on any other person having an interest in the land. I am also mindful of s176(5).
2. There are two lines of argument advanced in support of this challenge. First, the effective date is clearly stated in the issued notice at paragraph 6. The appellants felt misled because in the explanatory notes the Council refers to paragraph 7. However, humans can make typographical errors, and, in any event, a timely appeal has been made. I reject the idea the appellant was misled by this minor error.
3. Second, the appellant states the notice was posted to an incorrect residence. They reside at 18A whereas the notice was sent to 18 Woodford Road. The Courts have held that there are limits to how far the Local Planning Authority (LPA) need go in identifying the owners, occupiers and persons having an interest in the land¹. They have endorsed the practice that a land registry address is proper service if an LPA has not been given another. The LPA does not need to check the records of other Council departments. The statutory framework points to the knowledge of the LPA as relevant for the service of the notice. It is unclear if the LPA issued investigatory notices seeking clarification as to owners and occupiers. Be that as it may, it cannot be faulted for serving at the address given in His Majesty's Land Registry document, which clearly refers to no. 18 as the appellant's abode.

¹ *Newham LBC v Miah* [2016] EWHC 1043 (Admin) and *Oldham MBC v Tanna* [2017] 1 WLR 1970.

4. In any event, even if the notice had not been correctly served, section 176(5) provides that where it would otherwise be a ground for determining an appeal under s174 in favour of the appellant that a person required to be served with a copy of the notice was not served, that fact may be disregarded if neither the appellant nor that person has been substantially prejudiced by the failure to serve them.
5. Even if the appellant is correct, their interest has not been substantially prejudiced by the failure to serve them. This is because the appellant's timely appeal has protected their interest. The appellant has had an opportunity to argue the appeal fully during these proceedings. It cannot, therefore, be said that they have suffered any prejudice because of any failure to serve at 18A Woodford Road.
6. I conclude that the evidence presented indicates the notice has been properly served. In any event, given the circumstances of this case any failure in terms of service of the notice may be disregarded. Ground (e) fails.

Ground (a)

7. The terms of the deemed application are directly derived from the allegation. The **main issue** is the effect of the development upon the character and appearance of the host dwelling and street scene.
8. Nos. 115 and 117 form a pair of end-terrace dwellings located in a residential area. The street scene comprises similarly designed buildings probably dating from the same period. The topography gently rises from the road and site levels between nos. 115 – 117 are different. The first-floor extension spans over a shared alley between the two dwellings. However, given different ownership of the alleyway, the ground floor addition does not span across the full width of the dwellings. When considered in combination, the development has an awkward relationship with the host dwellings due to design and layout.
9. The terracing effect is visually reduced, due to the extension's set back from the front elevation, limited scale, and off-set from the eaves. The set back is minimal, but I consider the use of a dark coloured double-glazed casement at first floor level is at odds with the white uPVC used on the front elevations of the host properties. The use of this material accentuates the first-floor extension's awkward relationship, but flat roof extensions are not that uncommon in the wider locality. When considered in the context of the area's topography, I consider that the first-floor extension does not have an unacceptable visually jarring effect on the residential character of the street scene because of its limited scale. Provided the fenestration is altered to match existing dwellings, in my planning assessment, the first-floor extension would not cause unacceptable visual harm to the external appearance of the dwellings. I will return to imposing conditions.
10. On the other hand, the ground floor extension, which is said to form a storage cupboard linked to no. 115, is visually unacceptable given its siting and half-way location. It is mainly timber clad and has a rudimentary appearance. I find the design, type of materials used and its location causes visual harm to the external appearance of the dwellings and represents an unconventional form of built development in the street scene.
11. Following my site visit, I invited further comment on severability between the ground and first floor extensions, due to the wording of the allegation. The appeal parties also referred to an application for planning permission to retain the first-floor extension, but

details had not been submitted². I also took the opportunity to ask the parties' views on issuing a split decision. I have carefully considered relevant representations but will focus on those comments directly related to my enquiry.

12. There is extensive debate between the appeal parties as to what came first – the ground or first floor extension, or both - a sort of chicken and egg argument. Nonetheless, my observations reveal that the first-floor extension is structurally linked to both dwellings. This is because the supporting structural frame or joists are physically connected to the side elevations. The use of masonry joist hangers reinforces my assessment that the first-floor extension is a standalone structure and removing the somewhat ugly ground floor addition is unlikely to undermine the first-floor extension's structural stability. My approach is broadly consistent with the details submitted with the retrospective application to retain the first-floor extension. For these reasons, insofar relevant, I attach limited weight to the perceived conflict with the adopted Supplementary Planning Document: Residential Design Guide (2010).
13. Drawing all the above threads together, I find that the ground and first floor extensions are physically and functionally separate: the latter likely to function as additional living accommodation. A pragmatic outcome is to consider imposing conditions and granting planning permission for part of the matters alleged, which would address the planning difficulties.
14. Subject to the imposition of conditions, I conclude that the first-floor extension would not have a materially harmful effect on the host dwellings and the street scene. On balance, the first floor extension satisfies the main aims and objectives of paragraph 135 to the National Planning Policy Framework (2024), policies D3.D(1) and D3.D(11) of The London Plan (2021), and policies CS1.B of the Harrow Core Strategy (2012), DM1 A, DM1 B(a)(b) and (c) of the Harrow Development Management Policies Local Plan (2013).
15. A pragmatic outcome requires consideration of whether suitably worded conditions can be imposed where development has already been carried out and planning permission is granted for part of the matters alleged. If it cannot, planning permission would have to be refused. In this scenario, it is not feasible to impose a condition precedent or to require that outstanding details be agreed prior to the commencement regardless of the importance of those details. The detail required to make the first-floor extension acceptable is, in the grand scheme of things, minor because the front and rear fenestration needs altering.
16. Nonetheless, when a condition is imposed that requires the submission and approval of details or a scheme, it is essential that the condition incorporates a sanction or enforcement mechanism. This is necessary to ensure compliance if the required details are not submitted or approved as stipulated. I consider that details of replacement windows are required within a set timeframe, which will provide certainty because the latter will include an implementation timetable. The proposed retrospective condition meets the six tests and will be imposed. The condition can be imposed to make the development acceptable in planning terms and alter the first-floor extension at less disruption: a proportionate outcome. Contrary to the Council's arguments, in my judgement, planning permission can be granted for part of the alleged development.
17. For all the above reasons, I conclude ground (a) should succeed in part and planning permission will be granted for the first-floor extension, but permission will be refused for

² Council ref: P/0258/22 for first floor side extension, refused on 14 April 2022.

the ground floor extension. At risk of repetition these operational development elements are physically severable.

Ground (f)

18. From the wording of the whole notice, it seems to me that it seeks to remedy the breach of planning control by restoring the land to its condition before the breach occurred. That objective falls within s173(4)(a) of the 1990 Act. It is necessary to consider whether the requirement to demolish the unauthorised extension exceeds what is necessary to remedy the breach. In summary, for the reasons given elsewhere, in its totality, the ground and first floor extensions are unacceptable and nothing short of demolition achieves the purpose behind the notice. The steps required do not exceed what is necessary to remedy the breach and are proportionate. Ground (f) fails.

Split decision: the effect of section 180 of the 1990 Act

19. After the service of a notice, where 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. In this case, the appeal on ground (a) will be allowed in part with conditions. If the requirements of the notice were varied to exclude that part of the development for which planning permission is being granted, then this could, potentially, give rise to two inconsistent permissions, one being granted under s173(11) as a variation of cutting down the requirements. The requirements should not be varied to avoid this possibility. Instead, reliance will be placed on the operation of s180 to mitigate the effect of the notice in so far as it is inconsistent with the permission. Effectively, the notice should be read as requiring the removal of the ground floor extension.

Ground (g)

20. The appellant argues that the period of compliance is too short because the requirements would cause hardship to the occupiers. However, given the nature of the work required and the relatively rudimentary nature of the ground floor addition, removing the mainly timber construction should be straightforward. Six months is a reasonable period to arrange and implement the work without causing significant disruption to the occupiers. On the circumstances, the period of compliance is a proportionate response and strikes a fair balance between the competing interests of the individuals involved and the public interest. Therefore, ground (g) fails.

Overall conclusions

21. For all the above reasons and having considered all other matters raised, I conclude that the appeal on ground (a) should succeed in part only, and I will grant planning permission for the construction of the first-floor extension, but otherwise I will uphold the notice and refuse to grant planning permission in respect of the ground floor extension. 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 s180 of the 1990 Act. I further conclude ground (f) and (g) fail.

Formal decision

22. The appeal is allowed insofar as it relates to the construction of a first floor side extension at land at 115 & 117 Kingsley Road, South Harrow, Harrow HA2 8LF, referred to on the enforcement notice, 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 a first floor side extension, subject to the following conditions:

- 1) The development hereby permitted shall be demolished and removed from the land in entirety, and all materials resulting from the removal or demolition shall be removed within 6 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) within 3 months of the date of this decision, details of the window material, including colour, to replace the existing dark colour window frames on the front and rear elevation of the first floor extension hereby approved, which are hereinafter called “the Scheme”, shall have been submitted for the written approval of the local planning authority and the Scheme shall include a timetable for its implementation.
 - ii) If within 11 months of the date of this decision the LPA refuse to approve the Scheme or any element of 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 implemented and the development completed in accordance with the approved timetable. Upon implementation of the approved Scheme specified in this condition, that Scheme, in its entirety, shall thereafter be maintained and retained unless otherwise agreed with the LPA.

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.

23. The appeal is dismissed and the enforcement notice is upheld insofar as it relates to the construction of a ground floor side extension at land at 115 & 117 Kingsley Road, South Harrow, Harrow HA2 8LF, referred to on the enforcement notice, and planning permission is refused in respect of the construction of a ground floor side extension on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

A U Ghafoor

INSPECTOR