



Appeal Decision

Site visit made on 26 February 2026

by Alison Scott (BA Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2026

Appeal Ref: APP/M5450/W/25/3375532

Bredon, 2 Oak Tree Close, Stanmore, Harrow HA7 2PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Vinod Khimji against the Council of the London Borough of Harrow.
 - The application Ref is PL/2136/25.
 - The application sought planning permission for Demolition and re-development to provide a two storey detached dwelling (1 x 5 beds); parking; hard and soft landscaping, solar panels on roof; EV charging points on front elevation; cycle storage without complying with a condition attached to planning permission Ref PL/0615/25, dated 24 July 2025.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans and documents.
 - The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.
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Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. Planning permission was recently granted by the Council through application PL/0615/25 to erect a new dwelling on the land. Once permission was granted the appellant decided to amend the scheme and applied to the Council to vary the approved plans condition (condition No 2) via a Section 73 planning application. Therefore, as part of a Section 73 application, the Council can add, vary or remove planning conditions applied to the original permission. I note works have begun to implement the extant permission.
3. The changes to the original proposal relates to a number of alterations. However, the areas in dispute between the parties that I shall concentrate on arises from the design change to the dormer windows to the front and rear roof plane, and the inclusion of a new external plant room to the side of the building.
4. The Council failed to determine the proposal within the statutory timeframe and therefore the appellant proceeded to appeal under the non-determination process. The Council responded to this appeal by way of a statement of case and concluded that had they determined the s73 application, they would have refused the proposal on two grounds that they cite as if their reasons for refusal had they issued a decision notice.

5. I have had sight of the original plans approved by the Council and those that the Council failed to determine. The appellant explains that they submitted further plans for consideration to the Council during the application process, namely 24035FP1 01.03E and 24035FP1 01.04F. The appellant explains that they 'do not seek approval of those drawings through this appeal'. On this basis I have therefore discounted these plans.
6. The appellant has applied for an award of costs application against the Council. The decision is determined under separate cover.

Main Issues

7. The main issues of the proposal are:
 - The effect of the change to the dormer windows on the character and appearance of the local area;
 - Whether or not the plant room can be considered as part of a s73 application; and
 - If this is the case, would it result in an adverse impact on the living conditions of local residents by way of noise and disturbance.

Reasons

Character and appearance

8. The dormer windows approved by the Council are designed as an integral feature of the roof of the dwelling, positioned to the front elevation and to the rear. The Council considered these to be acceptable from a character and appearance perspective and I have no reason to come to an alternative view on the matter. To my mind the approved scheme with these dormers would appear proportionately in scale to the host roof with their flat roofs that decrease the overall bulk and scale and massing.
9. In the case before me, the front and rear roof dormers would be altered, most specifically, by way of a sloping roof as opposed to a flat roof.
10. From my assessment of the local area, I could see it is residential in character. Dormer windows are not an intrinsic feature of the local residential character of dwellings although a small number are visible within the street scene. One I viewed was located to the side of the original roof, subordinate in scale and takes design cues from the host dwelling.
11. The proposed roof of the dormers would create a new pitch and the pitch would extend higher into the roof plane and closer to the ridgeline of the host roof with limited space in-between. They would appear out of proportion with the host dwelling as bulky top-heavy additions that would dominate the roof to both the front and rear of the dwelling. More specifically, the front dormers would be seen from outside the site from street level. They would create a visually intrusive form of development, harmful to the character and appearance of the local area.
12. Therefore, the proposal would conflict with the overall design aims of Policy D3 of the London Plan, Policy CS1 of the Core Strategy and Policy DM1 of the Development Management Plan Local Policies (2013) and the Supplementary

Planning Document: Residential Design Guide (2010) and the achieving good design principles of the National Planning Policy Framework.

Plant room and effect on living conditions

13. In terms of the addition of a small plant room to the side of the dwelling, the Council is not convinced that this falls within the scope of a S73 application. The Council have responded to the appeal referencing the Court of Appeal Judgment of *Finney v Welsh Ministers* (Rev 1) [2019] EWCA CIV 1868 (Finney) and are of the view that to vary the condition as requested would amount to development fundamentally different to that approved under the original application.
14. The Court for Finney held that it was beyond the powers of the decision maker under S73 to alter the description of the development, as this is the operative part of the permission and S73(2) states that the planning authority must consider only the question of conditions. It follows, from Finney, that where amending a condition would result in a conflict between the new condition and the description of the development, that the particular amendment is beyond the powers under S73 and cannot be made. A fresh planning application is instead required. An amendment can only be made provided the new condition does not fundamentally alter the proposal originally granted permission.
15. It should be noted that the 'Finney' principles are not applicable to S79 appeals (determination of appeals) because this type of appeal includes the powers for myself as the Planning Inspector to consider the matter afresh and deal with the application as if it has been made to them in the first instance. In such cases I also have the powers to amend the description of the development should I consider it necessary.
16. The appellant confirms that the plant room would accommodate ancillary equipment associated with the dwelling, namely boiler and tank. However, the plans illustrate 'PLANT' and 'AV' that would reasonably indicate there is domestic mechanical equipment to be accommodated in this space. As the area is residential in character and dwellings are located close to one another, noise generating equipment can result in an adverse impact on the living conditions to these local residents.
17. Having said that, I must consider the purpose of a s73 application and the implications of noise and disturbance to local residents as a consequence of its function. In terms of the scale of the building, I am of the view that it would be a small amendment to the original planning permission that would accord with the scope of a s73 application as a minor material amendment. Where I minded to allow the appeal, having considered paragraph 57 of the National Planning Policy Framework, I am satisfied that suitably worded planning condition(s) would be appropriate to approve further details of its design and more specific details of the contents applied to a s73 application to ensure the living conditions of local residents would be safeguarded.
18. Therefore, to conclude on this main issue, the proposal would meet the expectations of London Plan Policy D14 and DM1 of the Harrow Development Management Policies (2013).

Other Matters

19. The appellant raises issues with the Council's service that are outside my jurisdiction to comment on and should be referred to them in the first instance.

Balance and Conclusion

20. Although I find in favour of the minor material amendment to the approved plans, as I am dismissing the appeal on a separate ground, the proposal must fail.
21. Therefore, the proposed development would lead to conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. For the reasons given, I conclude that the appeal is dismissed, and a variation of the approved plans Condition Number 2 is not granted for the development.

Alison Scott

INSPECTOR