

Appeal Decision

Site Visit made on 6 January 2026

by **J Whitfield BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13th March 2026

Appeal Ref: APP/X5210/C/24/3340790

260 Kilburn High Road, London NW6 2BY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Norman Property Investments Limited against an enforcement notice issued by the Council of the London Borough of Camden (the LPA).
 - The notice was issued on 9 February 2024.
 - The breach of planning control as alleged in the notice is, without planning permission, installation of a flue on the flat roof of the single-storey rear extension.
 - The requirements of the notice are:
 1. Totally remove the flue, associated fixtures, and fittings from the flat roof of the single-storey rear extension; and.
 2. Remove any resulting debris from the site and repair any damage caused by the above works.
 - The period for compliance with the requirements is: 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (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 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.

Appeal on ground (a)

2. An appeal on ground (a) is brought on the basis that, in respect of the breach of planning control stated in the notice, that planning permission ought to be granted. Where an appeal on ground (a) is duly brought, an application for planning permission is deemed to have been made.

Main Issue

3. The main issue is the effect of the development on the living conditions of neighbouring residents with particular regard to noise.

Reasons

4. Policy A4 of the Camden Local Plan 2017 (LP) sets out that the LPA will not grant planning permission for development likely to generate unacceptable noise impacts. It goes on to state that it will only grant permission for noise generating development, including plant and machinery, if it can be operated without causing harm to amenity.
5. The Land comprises a three-storey, mid-terraced property on Kilburn High Road – a busy high street characterised by a mix of commercial and residential uses. The property contains a commercial use at ground floor with three self-contained,

residential flats on the upper floors. The adjoining properties are of a similar setup. In addition, there is a large block of flats sited to the rear.

6. I heard at my site visit that the background noise environment in the area is typical of densely built urban environments, with significant noise from road traffic as well as from plant and machinery associated with the various commercial uses. Nonetheless, noise at the rear of the frontage, where the closest residential properties to the flue are located, is significantly reduced. Whilst I appreciate my observations were only a snapshot at a particular time of day, I have no reason to conclude they were not representative of typical conditions.
7. The development before me is a flue that has been installed on the flat roof of a single-storey extension to the rear of the property. The appellant indicates that it is understood the flue has been designed so it is acoustically attenuated to have no unacceptable impact on the amenity of neighbouring residents by way of noise. However, the LPA argues that noise nuisance is experienced from local residents. Noise complaints have been received by the LPA.
8. Moreover, it seems to me given the close proximity of the flue to several residential properties in the upper floors and to the rear of 258, 260 and 262 Kilburn High Road, it is likely that without appropriate attenuation, harmful levels of noise generated by the flue will arise, particularly if it was being operated during the evening hours when residents would have reasonable expectations for lower levels of ambient noise.
9. The appellant has stated that further acoustic information would be provided as part of the appeal. However, no such evidence has been provided. There are no technical specifications for the flue before me nor is there any substantive evidence regarding the acoustic output of the flue or any attenuation fitted to it.
10. In the absence of such information, I cannot be sure that the noise emanating from the flue can be suitably mitigated or attenuated such that the flue can remain in place without resulting in harmful levels of noise to neighbouring residents.
11. The appellant argues that a condition could be imposed requiring such details to be submitted and agreed. However, whilst further details of noise attenuation could in theory be agreed by condition, in the absence of the appellant having demonstrated that noise can be suitably attenuated in the first instance, and given the matter of noise is fundamental to the main issue before me, I find that such a condition would not meet the relevant tests of paragraph 57 of the National Planning Policy Framework.
12. I conclude, therefore, that the development will have a harmful effect on the living conditions of neighbouring residents with particular regard to noise, in conflict with LP Policy A4.

Other Matters

13. I note the appellant's argument that the development will help meet economic growth. However, there is very little substantive evidence before me as to how the business within the premises operates, whether it can operate without the flue and the implications doing so would have on the economic viability of the business. In the absence of any such evidence, I afford this matter very little weight.

Conclusion

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

Appeal on ground (g)

15. An appeal on ground (g) is brought on the basis that the time for compliance with the notice falls short of what should reasonably be allowed. The notice provides a period of two months for the flue to be removed, along with associated fixtures and fittings and any debris.
16. The appellant argues that they are keen to work with the LPA to ensure that the flue safeguards local residential amenity and thus an appropriate period to allow for compliance would be six months. However, the appellant has not set out how they intend to work with the LPA to do so, or how indeed they would ensure that the flue safeguards residential amenity. In contrast, it seems to me that two months is an appropriate length of time for the works to be undertaken and would suitably deal with the planning harm with the necessary expediency.
17. The appeal on ground (g) therefore fails.

J Whitfield

INSPECTOR