



Appeal Decisions

Site visit made on 27 January 2026

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 March 2026

Appeal A Ref: APP/N5090/C/25/3358796

Land at 2B Churchfield Avenue, London N12 0NT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Hussein Hassani against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice was issued on 2 December 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a timber and metal cover to the yard area with timber post supports.
 - The requirements of the notice are to:
 - 1 Demolish the timber and metal cover and timber post supports and restore the site to its condition prior to the breach of planning control, as shown on Drawing no. 192 - 01/MT Rev 0 and 192 - 02/MT Rev 0 of refused planning application 24/3978/RCU.
 - 2 Permanently remove all constituent materials resulting from the works in 1. above from the property.
 - The period for compliance with the requirements is four months.
 - The appeal is proceeding on the grounds set out in section 174(2)(e), (f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Appeal B Ref: APP/N5090/W/24/3358203

2B Churchfield Avenue, London N12 0NT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Hussein Hassani against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 24/3978/RCU.
 - The development proposed is described as 'Retrospective application for retaining the flat roof constructed over the yard in the site.'
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Decisions

1. It is directed that the enforcement notice is corrected by substituting the plan attached to this decision for the plan attached to the enforcement notice.
2. Subject to this correction, Appeal A is dismissed and the enforcement notice is upheld.
3. Appeal B is dismissed.

Preliminary Matter

4. The appellant referred to the appeal development as the 'canopy' in their submissions, and I shall also refer to the development as the canopy in my assessment.

Appeal A

The appeal on ground (e)

5. There is no dispute that the plan attached to the enforcement notice does not accurately identify the land to which the notice relates, as it includes adjacent land, which is not owned by the appellant, and on which the breach of planning control as set out in the notice has not taken place.
6. Nevertheless, the appellant was evidently aware from the description of the breach what the notice was targeted at and made a case in respect of that development. Moreover, whether or not the notice was served at the appellant's registered address, the appellant received a copy of the enforcement notice and was able to make a valid appeal. It could not therefore be said that they were substantially prejudiced.
7. The Council provided an amended plan, and I have powers to correct a defective enforcement notice. Consequently, I will exercise my powers under s176 of the Act, to correct the notice by substituting the site plan with the one attached to this decision, as I am satisfied there would be no injustice to either party.
8. Since the corrected plan, relates only to land in the appellant's ownership, as identified on the Title Register, I cannot conclude that any other person who should have been served with the notice has not.
9. The appeal on ground (e) fails.

The appeal on ground (f)

10. An appeal on ground (f) is that the requirements of the notice exceed what is necessary to achieve the purpose of the notice. The purposes of an enforcement notice are set out in section 173 of the Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)).
11. The notice requires that the canopy be removed and the land returned to its condition before the breach took place. Accordingly, its purpose is to remedy the breach of planning control. That purpose can only be achieved by demolishing the canopy and restoring the land to its condition before the breach took place.
12. The appellant suggested that the notice is varied to allow the canopy to cover just 50% of the land and for its height to be reduced to 2.5m however, no details were provided.
13. In any case, even if an alternative scheme fell within the statutory power to grant planning permission, this could only be considered in the context of a planning application for the development. No appeal has been brought on ground (a) and an appeal on ground (f) cannot be used to consider the planning merits or bring about a deemed application for the development. The only consideration is whether the requirements exceed what is necessary to achieve the identified purpose.
14. Since the requirements would do no more than to seek to achieve the purpose of the notice, to remedy the breach of planning control, they are not excessive.
15. The appeal on ground (f) fails.

The appeal on ground (g)

16. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant suggested a period of six months, based on the need to find local affordable storage for the items currently stored beneath the canopy.
17. The purpose of the time period within an enforcement notice is to allow for the physical works associated with the notice to be carried out. The appellant's submission largely relates to the time before works can commence.
18. Whilst the appellant's concerns are understandable, in the absence of substantive explanation about the availability of alternative storage, and given the relatively straightforward nature of the canopy, I consider the period of four months as specified in the notice, is proportionate to the breach of planning control that has occurred. The appeal on ground (g) fails.

Appeal B

Preliminary Matters

19. The development has been carried out and therefore my assessment is made based on the submitted details and my observations.
20. Since the application was determined and the appeal made, the Council adopted the Barnet Local Plan 2021 – 2036 (Local Plan). The Council were asked to provide copies of the policies which they intend to rely on, upon which the appellant was given the opportunity to comment. Those comments have been considered.

Main issues

21. These are the effect of the canopy on (i) the character and appearance of the area (ii) the setting of the grade II listed Christ Church and (iii) the living conditions of the occupants of 2 and 4 Churchfield Avenue with particular regard to outlook.

Reasons

Character and appearance

22. The appeal site is located to the rear of a terrace of traditional dwellings, in close proximity to the grade II listed Christ Church. There are domestic buildings in the vicinity of the appeal site, and it seems, although of no particular architectural merit, the existing garage blocks on the appeal site are of typical domestic scale and appearance.
23. The canopy relates neither in terms of scale, form, or design to the surrounding residential development. It is a rudimentary construction, consisting of some poor-quality materials, including corrugated sheeting, and does not represent high quality design.
24. Whilst not prominent in wider public views and screened to some extent in views from the adjoining church car park by the existing garages, it will be visible from the gardens and upper floors of surrounding properties. In such views, the canopy will appear as a significantly discordant feature.

25. For these reasons, the canopy causes material harm to the character and appearance of the area contrary to Policy CDH01 of the Local Plan and Policy D3 of The London Plan 2021, which together require development to be of a high architectural and urban design quality. It also conflicts with the overall design aims of the National Planning Policy Framework (the Framework) which requires development to be visually attractive as a result of good architecture.

Setting of Christ Church

26. The Council referred to the canopy being visible from the church, however, visibility from buildings does not necessarily equate to harm. The Council has also not sought to describe or provide explanation about what they consider the setting of the church consists of. However, there is evidently a close visual, historic and possibly social relationship between the church and the neighbouring Victorian terraces, of which the appeal site forms a part, and this setting forms part of its significance.
27. The canopy is set away from the boundary with the church and views from within the curtilage of the church are limited. However, the canopy is seen in views from the dwellings on Churchfield Avenue and in such views, because of its rudimentary and utilitarian appearance, detracts from and erodes the appearance of the historic environment surrounding the church, thus causing harm to the setting of the listed building.
28. In terms of the phraseology used in the Framework the harm identified to the setting of the listed building, which is a designated heritage asset, is less than substantial. Nevertheless, any harm to such assets should require clear and convincing justification. This requires a balancing exercise of harm against the public benefits of the proposal.
29. That the canopy screens the site from views, provides privacy, and may act as a deterrent to crime, are matters of little weight since there is no evidence that the canopy is the only means by which such benefits could be achieved.
30. Consequently, the public benefits do not outweigh the great weight that I am required to attach to the heritage asset's conservation. The canopy does not accord with Policy CDH08 of the Local Plan which amongst other matters, seeks to ensure that designated heritage assets are conserved and enhanced in a manner appropriate to their significance. It also fails to accord with national policy which seeks to conserve and enhance the historic environment.

Living conditions

31. The canopy is located close to the existing boundary with the flats at 2 and 4 Churchfield Avenue. It measures around 2.55m to eaves height and 2.8m at the highest point, and projects above a fairly tall existing concrete fence. Given the height of the existing fence and the fairly modest projection above that, I find there will be no materially harmful overbearing impact on the outlook from the gardens or dwellings at Nos. 2 and 4.
32. Accordingly, there is no conflict with the amenity protection aims of Policy CDH01 of the Local Plan, Policy D3 of The London Plan 2021 or the Framework.

Other matters

33. Comments regarding business use and increased activity, along with those regarding noise, sunlight matters and blocking of accesses have no bearing on my decision, since no harm was identified by the Council in respect of these matters. Similarly, for certainty, previously refused planning applications have no bearing on my consideration of the appeal.
34. The Council also referred to policies GSS01, CDH04 and ECC05 of the Local Plan and Policy D6 of The London Plan 2021 which relate to delivering sustainable growth, tall buildings, Barnet's parks and open spaces and housing quality and standards, which are not relevant to the considerations in this case and weigh neither for nor against the development.

Conclusions

35. For the reasons given above, I conclude that Appeal A should not succeed. I shall uphold the enforcement notice with a correction.
36. In Appeal B, although I found no harm to the living conditions of the occupiers of 2 and 4 Churchfield Avenue, the identified harm to the character and appearance of the area and the setting of the listed building means that the proposal conflicts with the development plan read as a whole, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

Felicity Thompson

INSPECTOR

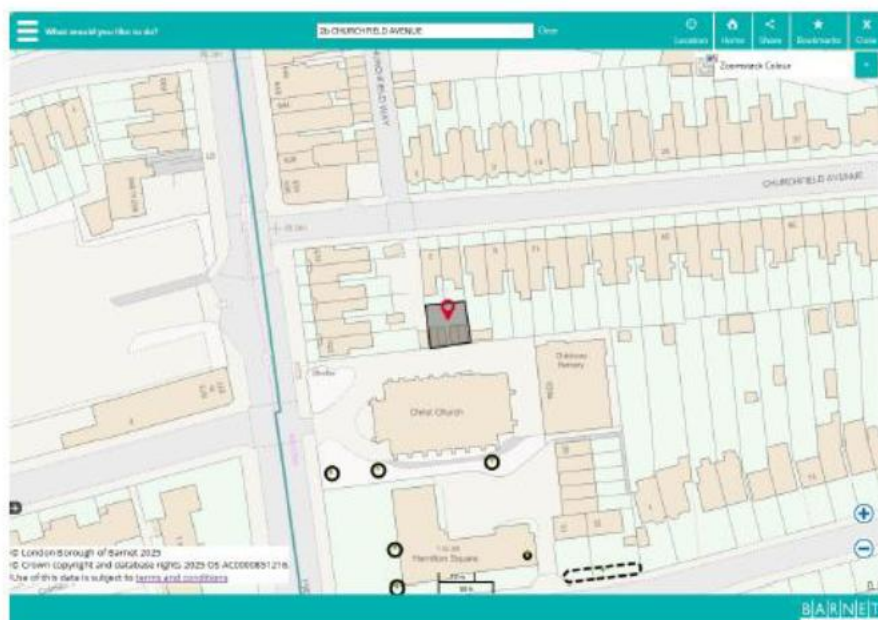
Plan

This is the plan referred to in my decision dated: 20 March 2026

by **Felicity Thompson BA(Hons) MCD MRTPI**

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Land at: 2B Churchfield Avenue London N12 0NT	Fabien Gaudin Service Director – Planning and Building Control, 2 Bristol Avenue Colindale, London NW9 4EW	ENF/1035/24	N ↑
Title: SITE PLAN.		This product includes mapping data licensed from Ordnance Survey. With the permission of the Controller of Her Majesty's Stationery office. © Crown Copyright and database right 2016. All rights reserved. London Borough of Barnet Licence No. 100017674.	
SCALES 1 : 1250 Date: 02.04.2025			