



Appeal Decision

Site visit made on 17 March 2026

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2026

Appeal Ref: APP/U5360/C/24/3337599

74 Powerscroft Road, Hackney, London E5 0PP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Ajit Singh against an enforcement notice issued by the Council of the London Borough of Hackney.
 - The notice was issued on 14 December 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of an outbuilding.
 - The requirements of the notice are: 1. Remove the outbuilding located in the rear garden in its entirety; 2. Make good all damage to the property resulting from the removal of the unauthorised works as listed above; and 3. Upon completion of the above steps, remove all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the property and its premises.
 - The period for compliance with the requirements is four months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c) 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.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning Permission is refused on the deemed application made under section 177(5) of the 1990 act as amended.

Application for costs

2. An application for costs has been made by the Council of the London Borough of Hackney against Mr Ajit Singh. This application is the subject of a separate Decision.

Preliminary Matters

3. My decision takes the revised National Planning Policy Framework (the Framework), which came into force during the course of the appeal, into account.
4. The appeal against an enforcement notice alleging the construction of an outbuilding without planning permission at 72 Powerscroft Road (No 72) is the subject of a separate Decision¹.

Ground (c) appeal

5. The ground of appeal is that the matters stated in the enforcement notice do not constitute a breach of planning control. The burden is firmly on the appellant to show why their appeal should succeed on this ground, the relevant test of the evidence being on the balance of probability.

¹ Appeal Ref: APP/U5360/C/24/3337600

6. The appeal property contains a mid-terrace residential building. The notice attacks the erection of a single storey outbuilding, located towards the end of the rear garden. The outbuilding is incomplete both externally and internally and is attached to a structure of similar size and appearance in the rear garden of No 72.
7. The operations undertaken to erect the outbuilding fall within the definition of development in s55(1) of the Act. Planning permission is required for the development of land, having regard to s57(1) of the Act.
8. The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (GPDO) grants planning permission at Article 3, Schedule 2, Part 1, Class E for the provision within the curtilage of a dwelling of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwelling as such, or the maintenance, improvement or other alteration of such a building or enclosure. This is subject also to the size and locational limitations in paragraphs E.1 to E.3 being met, where relevant.
9. According to the appellant, the property is used as a small House in Multiple Occupation (HMO) within Class C4 of the Town and Country Planning (Use Classes) Order 1987. Relevant case law confirms that a dwelling used as a Class C4 HMO can benefit from permitted development rights in the GPDO Part 1.²
10. Be that as it may, there is little firm evidence of a reasonable requirement at the property for an outbuilding of this size for a purpose or purposes incidental to the enjoyment of the dwelling as such. In this context, 'incidental' generally refers to a subordinate activity connected with the running of the dwelling or with the domestic or leisure activities of its occupiers. No explanation was provided concerning the incidental use or activity which it is proposed to undertake at the outbuilding. Consequently, it is not possible to assess whether the outbuilding is genuinely and reasonably required or necessary in order to accommodate the proposed use or activity. As I understand it, the appellant does not reside at the property so their use of some or all of the outbuilding would not be incidental.
11. Additionally, being located within 2m of the property boundary and having an overall height of around 2.7m, the outbuilding exceeds the 2.5m limitations on the overall height and height to eaves, in Class E paragraphs E.1(e)(ii) and (f) respectively. At around 0.2m taller, the outbuilding exceeds the permitted height limits by some margin. In any event, since the limitations on the size of development are expressed precisely in the GPDO, there is no scope for a 'de minimis' infringement. The facts and circumstances of this case differ from in the appeal decision supplied, where, after examining and interpreting the accompanying drawings, the Inspector found that differences in measurements involved no breach of permitted development limits. I do not read that decision as implying there might be circumstances when a breach of a limitation in the GPDO could be regarded as 'de minimis.'
12. The outbuilding meets the relevant size and locational imitations in paragraph E.1(b), (c) and (d) of Class E, whilst paragraphs E.2 and E.3 do not apply. Also, the limitation at paragraph E.1(h) is met. The roof overhang at the front of the outbuilding is not what might ordinarily be described as a 'veranda.' Such structures are not generally associated with the roof of a building. According to the Government's Technical Guidance (TG), which assists in interpreting the GPDO, a veranda is understood to be a gallery, platform, or balcony, usually roofed and often partly enclosed, extending along the outside of a building at ground level.³ Accordingly, in my view the overhang is not a veranda. Nor could it be described as a balcony or raised platform as understood by the TG.

² *London Borough of Brent v SSHCLG & Yehuda Rothchild* [2022] EWHC 2051 (Admin)

³ Permitted development rights for householders: Technical Guidance MHCLG 2019

13. However, the GPDO would only grant planning permission for the outbuilding where all the relevant limitations in Class E had been met. Modifications would not bring the outbuilding within Class E, as permitted development rights cannot be applied retrospectively. As a result, I am not persuaded that erection of the outbuilding is permitted by Class E.
14. Given my findings set out above, express planning permission is required for erection of the outbuilding. As far as I was made aware, no such permission has been obtained. The definition of a breach of planning control in s171A(1)(a) of the Act includes carrying out development without the required planning permission.
15. Accordingly, on the balance of probability the matter stated in the notice constitutes a breach of planning control; the appellant has been unable to discharge the burden on them to show otherwise. The ground (c) appeal fails.

Ground (a) appeal

Main Issues

16. The main issues in this ground of appeal are:
 - The effect of the outbuilding on the character and appearance of the surrounding area.
 - The effect on the living conditions of existing and future occupiers of neighbouring residential property, having regard to outlook.

Reasons

Character and appearance

17. The property is located in an established residential area, largely made up of dwellings of traditional appearance arranged in neat terraces and having comfortably sized, maturing back gardens. In general, outbuildings in the vicinity are of modest scale, with reasonably low profiles and occupying limited portions of rear gardens. These factors contribute to the pleasant, orderly residential character and appearance of the environs.
18. The outbuilding is of substantial scale compared to most other garden structures in the vicinity. The built footprint occupies a significant portion of the rear garden. The size and bulk of the outbuilding is immediately adjacent to neighbouring gardens on both sides and at the rear. Along with the overall height, which protrudes well above neighbouring garden boundary enclosures, this all creates the impression of the outbuilding being cramped and restricted on its plot. It contributes to an appreciably more built-up feel in the vicinity, emphasised by the attachment to the garden structure of corresponding scale at No 72. As a result, the outbuilding is entirely at odds with the prevailing pattern of local development and viewed as an alien feature in its surroundings.
19. The outbuilding does not compare favourably with neighbouring garden buildings at 76 and 78 Powerscroft Road, recently erected following the granting of planning permission. Although not dissimilar in height to the outbuilding, those structures are appreciably smaller in scale, occupy less of the rear garden and are set away from their plot boundaries.
20. I am given to understand that the Council have also recently granted permission for a number of garden buildings at properties in the wider area, some of which are similar in height or taller than the outbuilding. The principle of erecting a garden building at the property is not at issue. However, from the details supplied, none of the examples referred to are of similar scale and plot coverage to the outbuilding or have comparable visual consequences. Besides, the outbuilding in this appeal ultimately falls to be considered on its individual planning merits.

21. The appellant suggested that the outbuilding height could be reduced to the 2.5m limit in the GPDO. Although this was raised under the ground (f) heading it falls to be considered as part of the ground (a) appeal, as planning merits considerations are involved. Even so, I am not persuaded that there is a realistic 'fallback' position of erecting a structure of similar scale and footprint at the property immediately following compliance with the notice. As already explained, the outbuilding is not permitted by Class E for reasons in addition to its height. In that context, modifying the outbuilding as suggested would not satisfactorily address the visual harm caused.
22. Therefore, the outbuilding significantly and harmfully erodes the character and appearance of the surrounding area. This conflicts with Policy D3 of the London Plan, which requires new development to, amongst other things, enhance local context by delivering buildings and spaces that positively respond to local distinctiveness, including through their scale, appearance and shape, to respond to the existing character of a place by identifying the special and valued features and characteristics that are unique to the locality and to be of high quality, with architecture that pays attention to detail. It also conflicts with Policy LP1 of the Hackney Local Plan (LP), which requires all new development to be of highest architectural and urban design quality, including by responding to local character and context.

Living conditions

23. The outbuilding backs on to the side of the rear garden of neighbouring residential property at 71 Rushmore Road (No 71). The overall height and length of the outbuilding, individually and in accumulation with the attached structure at No 72, has resulted in a tall, unrelieved expanse of masonry wall running parallel to and in proximity with a substantial portion of No 71's rear garden. The outbuilding looms over No 71's rear garden, which is significantly shorter and narrower than at other properties in the environs. Additionally, the outbuilding is highly likely to be readily apparent from ground floor windows at the rear of No 71. This has all led to the outbuilding being viewed as a substantial and obvious built feature from No 71, creating a stronger and more oppressive sense of enclosure at the rear of that property and significantly eroding the level of outlook previously enjoyed by its occupiers. Reducing the height of the outbuilding as suggested would also not satisfactorily address the adverse consequences for neighbour's outlook.
24. Therefore, the outbuilding causes unacceptable harm to the living conditions of existing and future occupiers of neighbouring residential property. This conflicts with LP Policy LP2, which requires all new development to be appropriate to its location and to be designed ensuring that there are no significant adverse impacts on the amenity of neighbours.

Other matters

25. The available evidence suggests that the Council attempted to engage with the appellant with the aim of resolving matters at the property informally, prior to issuing the notice. This is consistent with the approaches set out in the Framework concerning decision making and acting proportionately when responding to suspected breaches of planning control.

Conclusion-Ground (a) appeal

26. The outbuilding causes unacceptable harm to the character and appearance of the surrounding area and to the living conditions of existing and future occupiers of neighbouring residential property, in 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. Consequently, the ground (a) appeal does not succeed.

Ground (f) appeal

27. The ground of appeal is that the requirements of the notice are excessive.
28. An enforcement notice can have the purpose of remedying the breach of planning control, including by making any development comply with the terms of any planning permission which has been granted in respect of the land, or by restoring the land to its condition before the breach took place. Alternatively, the notice can have the purpose of remedying any injury to amenity caused by the breach. Although the notice does not state as such, its purpose must be to remedy the breach. The notice requires total removal of the outbuilding, amongst other things. By removing the outbuilding and complying with the other requirements, the property would be restored to its condition before the breach took place.
29. Whether the outbuilding could be modified has largely been dealt with in the ground (a) appeal. In the context of ground (f), a reduction in height does not represent an obvious alternative to the notice requirements, as it would result in the outbuilding remaining in situ. That would sustain rather than remedy the breach, as the property would not be restored to its condition prior to the breach taking place.
30. Whether there is a realistic fallback position has also been considered above. Given the uncertainty involved, it is not possible to vary the notice to remedy the breach by making the outbuilding comply with the terms of the planning permission granted by Class E. No other alternative to the notice requirements was suggested and to my mind, nothing less would remedy the breach and so achieve the purpose of the notice.
31. Therefore, the notice requirements are not excessive; they represent a proportionate remedy, being the minimum steps necessary to restore the property to its condition prior to the breach taking place. The ground (f) appeal also fails.

Conclusion

32. 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 deemed application.

Stephen Hawkins

INSPECTOR