



Appeal Decision

Site visit made on 24 February 2026

by Richard S Jones BA (Hons), BTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2026

Appeal Ref: APP/M5450/C/23/3325757

Land at 16 Brookshill Avenue, Harrow, HA3 6RZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Kamlesh Natvarlal against an enforcement notice issued by the Council of the London Borough of Harrow.
 - The notice was issued on 8 June 2023.
 - The breach of planning control as alleged in the notice is without planning permission:
 - 3.1 The unauthorised construction of a single storey side to rear extension and the installation of a door in the rear elevation of the first floor rear elevation (“the Unauthorised Development”); and
 - 3.2 The unauthorised hardsurfacing [sic] of the entire front garden (“the Unauthorised Hardstanding”) as shown hatched in blue on Plan 2.
 - The requirements of the notice are to:
 - 5.1 Demolish the Unauthorised Development; and
 - 5.2 Block up the new door created in the rear elevation of the first floor rear extensions and make sure the material used matches the existing building; and
 - 5.3 Make good any damage caused to the dwelling as a result of the above steps and ensure that all materials used shall match those used in the existing dwelling; and
 - 5.4 Remove the Unauthorised Hardstanding; and
 - 5.5 Remove from the Land all materials, debris, plant and machinery arising from compliance with the aforementioned requirements of this notice.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (c) 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. It is directed that the enforcement notice is corrected by:
 - Deleting paragraph 3.1 and its substitution with “The unauthorised construction of a single storey side to rear extension and the installation of a first floor level door in the rear elevation of the two storey rear extension (“the Unauthorised Development”); and”.
 - Deleting the word “hardsurfacing” in paragraph 3.2 and its substitution with the words “hard surfacing”.
 - Deleting paragraph 5.2 and its substitution with “Block up the new first floor level door installed in the rear elevation of the two storey rear extension, ensuring the materials used match those of the existing building; and”.
2. Subject to the corrections, the appeal is allowed insofar as it relates to the hard surfacing of the entire front garden 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 hard surfacing of the entire front garden on land at 16 Brookshill Avenue, Harrow, HA3 6RZ.

3. The appeal is dismissed and the enforcement notice is upheld as corrected insofar as it relates to the construction of a single storey side to rear extension and the installation of a first floor level door in the rear elevation of the two storey rear extension. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended in respect of the construction of a single storey side to rear extension and the installation of a first floor level door in the rear elevation of the two storey rear extension on land at 16 Brookshill Avenue, Harrow, HA3 6RZ.

Preliminary Matters

4. At my site visit I explained that I could not listen to additional representations, but the appellant proceeded to tell me about his health and personal circumstances. To ensure fairness, the rules governing written representation appeals require inspectors to make their decisions based only on the written evidence, seen by both sides, and what is observed during the site visit. I therefore offered the appellant opportunity to make a written submission on his personal circumstances and opportunity for the Council to respond to the same. I have considered the information provided by the appellant below, to which the Council did not respond.
5. Since the appeal was submitted, a revised version of the National Planning Policy Framework (the Framework) has been published (December 2024) and this is a material consideration which should be taken into account from the date of its publication. I therefore invited the parties to consider whether the revised Framework has relevance to the cases made. The appellant confirmed that he had no comments on the revised Framework. No response was received from the Council.
6. The Council has confirmed that its Local Plan Core Strategy and Development Management Policies, as referred to in the reasons for issuing the enforcement notice, have been replaced by the Harrow Local Plan 2021-2041 (HLP). As my decision must be made against the current development plan, I offered the parties opportunity to comment on the relevant replacement policies. The Council confirmed that there had been no material change to the policy approach or to the assessment of harm insofar as such matters apply to this appeal. The appellant confirmed that he had no comment on the change of development plan.

The Enforcement Notice

7. The latter part of the breach of planning control at paragraph 3.1 is the installation of a door in the rear elevation of the first floor rear elevation. That would be more precisely and clearly described as the installation of a first floor level door in the rear elevation of the two storey rear extension. The corresponding requirement would also be clearer by similarly identifying the door, as well as then following logically from the corrected breach.
8. The breach at paragraph 3.2 refers to “hardsurfacing”. That is clearly a typo and should be “hard surfacing” – two words.
9. I am satisfied that I am able to correct the notice as per the above, under the powers transferred to me by s176(1)(a) of the 1990 Act, without injustice to any party.

The Appeal on Ground (c)

10. A ground (c) appeal is that the matters alleged in the notice do not constitute a breach of planning control. The onus lies with the appellant to make his case on the balance of probabilities.
11. The case made under this ground relates solely to the installation of the first floor door in the rear elevation. The parties agree that amounts to development for the purposes of s55 of the 1990 Act, but the appellant argues that it is permitted development under Class A, Part 1, Schedule 2 of the GPDO¹, which relates to the enlargement, improvement or other alteration of a dwellinghouse.
12. However, Article 3(5)(a) of the GPDO stipulates that the planning permission granted by Schedule 2 does not apply if in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful.
13. I appreciate that there is no suggestion that the two storey rear extension in which the door has been inserted, is unlawful. However, Article 1(2) of the GPDO defines 'building' as including 'any part of a building'. So, if the building operations involved in the construction of any part of that building are unlawful, the permitted development rights granted in connection with the existing building do not apply.
14. Consequently, Class A permitted development rights, insofar as they may relate to the installation of a first floor level door in the rear elevation of the two storey rear extension, are disapplied.
15. The appeal on ground (c) fails.

The Appeal on Ground (a)

Main Issues

16. The main issues are:
 - whether the development would amount to inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies;
 - the effect on the openness and purposes of the Green Belt;
 - the effect on the character and appearance of the area;
 - the effect on the living conditions of neighbouring occupiers with particular regard to privacy; and
 - if the development is inappropriate, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development.

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015

Reasons

Background

17. The appeal relates to a two storey semi-detached dwellinghouse situated on the crossroads of Brookshill Avenue, within the Green Belt.
18. By way of relevant planning history, an application for planning permission for development including a single storey side and rear extension, front porch and additional parking space, was dismissed at appeal in December 2020². Nevertheless, planning permission was subsequently granted for a single storey rear extension in June 2021³, and for a single storey side extension in March 2022⁴.

Whether inappropriate development and the effect on openness and Green Belt purposes

19. HLP Policy GI1 states that any proposal for development in the Green Belt will be considered in accordance with the Framework. Paragraph 153 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. London Plan Policy G2 seeks to protect the Green Belt from inappropriate development.
20. Paragraph 154 of the Framework sets out exceptions to development being considered inappropriate development in the Green Belt. Exception (c) is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
21. The appeal dwelling already had a two storey rear extension. The appellant states that most of the houses in Brookshill Ave have this kind of extension and it seems likely they were all constructed around the same time, in the 1970s. He says that the original dwellings were unusually shallow and that the rear extensions create dwellings of a more conventional size, effectively creating a new rear building line.
22. Be that as it may, for the purposes of the Framework, original building is a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally. Consequently, the judgement as to whether the development amounts to a disproportionate addition must be made against the size of the dwelling without the two storey rear extension, that being the original building. It also follows that the difference between what has been built, and the approved side and rear extensions, does not fall to be considered as part of this disproportionate exception.
23. In the case of the previous appeal, the Inspector found that the cumulative total proposed with the previous additions to the building would amount to an increase in volume of approximately 141%, thereby amounting to a disproportionate addition.
24. Whilst the side element of the as built wraparound extension is narrower, the overall footprint is broadly similar, such that any reduction in volume is unlikely to be significantly less than 141%. I therefore find no reason to arrive at a different conclusion, that the extension results in a disproportionate addition over and

² Appeal Ref: APP/M5450/D/20/3258635

³ Ref: P/1723/21

⁴ Ref: P/4634/21

above the size of the original building. Consequently, the single storey side to rear extension does not meet exception (c) of paragraph 154 of the Framework.

25. Although the appellant confirmed that he had no comments to make on the revised Framework, it does introduce the concept of “grey belt” land where development in the Green Belt may not be considered inappropriate. For the purposes of decision-making, grey belt is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) of paragraph 143⁵ of the Framework, namely to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; and to preserve the setting and special character of historic towns.
26. The appellant’s pre-existing photographs show that part of the site was occupied by a garage, so that the corresponding area would amount to previously developed land. However, I have no evidence to show that the remainder of the affected land was anything other than residential garden, which is excluded from the definition of previously developed land in the Framework.
27. Nevertheless, being part of a residential property, within the wider residential development at Brookshill Avenue, the site does not strongly contribute to checking the unrestricted sprawl of a large built up area or preventing neighbouring towns from merging into one another. There is no suggestion that the site preserves the setting and special character of a historic town. The site is therefore grey belt for decision making purposes.
28. As the site passes through the gateway of utilising grey belt land then the development should be considered against the remainder of the criteria at paragraph 155, all of which need to be met in order to qualify as not inappropriate development (save for criterion d., which relates to major development only).
29. In that regard, it is first necessary to consider the second element of criterion a. of paragraph 155, namely whether the development would fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan.
30. As discussed above, the site does not strongly contribute to Green Belt purposes a), b) and d). Again, as the affected land falls within an existing residential property, it does not conflict with Green Belt purpose c), namely assisting in safeguarding the countryside from encroachment. Moreover, purpose e) relates to urban regeneration so is not relevant. The development does not therefore affect the ability of the remaining Green Belt across the plan area to serve all five Green Belt purposes in a meaningful way, thereby meeting criterion a. of paragraph 155.
31. Criterion b. is that there is a demonstrable unmet need for the type of development proposed. Whilst I recognise a larger home may be more desirable to the appellant, he has not taken the opportunity to respond to my invitation to consider whether the revised Framework has relevance to his case. Consequently, it is not demonstrated that the increase in internal living accommodation meets an unmet need. The single storey side to rear extension does not therefore meet criterion b. of paragraph 155.

⁵ The definition of grey belt excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development, but I have no evidence to suggest that is applicable here.

32. As the extension is clearly sustainably located in relation to the original dwelling, criterion c., relating to the same, is met.
33. However, for the reasons explained, criterion b. is not met, and, as all criteria must be met, the single storey side to rear extension should be regarded as inappropriate development in the Green Belt for the purposes of the Framework, London Plan Policy G2 and HLP Policy GI1.
34. There is no suggestion that the installation of the first floor door in the rear elevation amounts to inappropriate development and I am satisfied that would amount to an alteration of a building that does not result in a disproportionate addition over and above the size of the original building, thereby meeting exception (c) of paragraph 154 of the Framework.
35. Turning to the front area of hardstanding, exception (h) of paragraph 154 includes engineering operations, provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Openness is identified in the Framework as one of the Green Belt's essential characteristics. It has both a spatial and visual aspect.
36. Being at ground level, the hardstanding itself has no effect on spatial openness. Although it facilitates cars being parked in front of the dwelling, those vehicles would likely be in or around the site anyway, in association with its residential use. Therefore, in overall terms, there would be no material effect on visual openness either. For the same reasons as applicable to the extension, the provision of the hardstanding does not conflict with any of the purposes of including land within the Green Belt.
37. Accordingly, the hardstanding meets exception (h) of paragraph 154 of the Framework and does not amount to inappropriate development in the Green Belt.
38. Turning back to the extensions, as highlighted by the previous Inspector, the appeal site is in an established residential area with a clear pattern of development. The proposed increase in footprint and volume, albeit limited to a single storey, would result in a modest loss of spatial openness.
39. The side elevation can be clearly seen across the open site frontage but the height of the side boundary fencing limits views of the rear extension from the public realm.
40. In overall terms, the extensions result in a limited degree of harm to the openness of the Green Belt. That is consistent with the findings of the previous Inspector's decision.

Character and appearance

41. Although many individual properties have been extended and/or altered, Brookshill Avenue is largely characterised by similarly designed semi-detached dwellings with hipped roofs, symmetrical porches and bay windows with projecting hipped canopies above.
42. The Inspector in her 2020 appeal decision noted that the proposed side and rear extension would result in a substantial additional element running the full depth and width of the existing house. She considered that the large expanse of wraparound flat roof would not be characteristic of the immediate area and the

extension as a whole would appear disproportionate in scale in relation to the existing house, particularly due to its prominent position on the junction. For those reasons the Inspector found that the proposals would be harmful to the character and appearance of the existing house and the wider street scene.

43. Save for the side extension being narrower, the fundamental characteristics of that which has been built is largely the same as that previously considered at appeal, being an extension which wraps around the side and rear of the house with a flat roof, set out on a broadly similar footprint. I therefore see no reason to arrive at a differing conclusion in that it is harmful to the character and appearance of the appeal property and surrounding area.
44. However, as explained, planning permissions have separately been granted for both a rear extension and a side extension. The appellant refers to those permissions as a fallback position, but they are now time expired. Nevertheless, whilst the development plan in place at the time of those decisions has since been replaced by the HLP, the Council has not identified that, or any other change in circumstance, as a reason why it would now reach a different decision in respect of those extensions.
45. Whilst the existing and approved side elevation would appear to be similar, the as-built rear extension is significantly larger, running to the full width of the original dwelling and extending across and beyond the width of the side extension. In visual terms, extending the width of the extension up to the side boundary with No 14 is not harmful and would broadly tie in with the general proportions of the extension at that neighbouring property, at the point where they meet (although that is largely obscured by an additional rear external kitchen extension at the appeal property, which does not appear to form part of the matters).
46. However, the rear extension also runs to the opposite side, beyond the main side wall of the dwelling and side extension, to nearly the full width of the plot. As a result, it appears disproportionately large, contributing to a general perception of an overdeveloped site. The lantern roof at this point compounds its visual presence. In comparison, merely squaring off the rear extension by matching the width of the side extension, would have a materially lesser impact.
47. The appellant has referred me to other extensions in the area which have been approved by the Council. For that approved at No 31 Brookshill Avenue, the appellant asserts that the total area and volume exceed that which is subject to this appeal. However, no calculations have been provided to demonstrate that is the case, and existing plans for No 31 have not been provided either.
48. Based on the proposed floor plans it would appear that the additional two storey element approved was relatively modest and would only bring that dwelling broadly in line with the two storey extension at the appeal site. Moreover, that approved at No 31 does not include a side extension or a rear extension projecting beyond the main side elevation of the dwelling. It is not therefore reasonably comparable to that which is before me and thus carries very limited weight by way of precedent.
49. The appellant also refers to approvals at Nos 2, 18 and 29 Brookshill Avenue, but I haven't been provided with the associated plans to enable a comparison with the appeal development.

50. Save for a small planting bed, the whole of the site frontage has been surfaced with large light grey paving slabs, creating a hard and somewhat stark setting to the dwellinghouse. Because of the open frontage, the effects of that treatment are fully exposed to the street scene. Taken in isolation, that would not be acceptable. However, the frontages of numerous other properties in Brookshill Avenue have also been fully hard surfaced. Whilst those are generally more muted in appearance, the difference to the harm arising is not sufficient to withhold planning permission on that issue alone.
51. Nevertheless, for the reasons explained, I find that the overall width of the rear extension results in unacceptable harm to the character and appearance of the area, contrary to London Plan Policy D3 and HLP Policy GR1 and Strategic Policy 01. Those policies state, amongst other things, that development proposals must achieve a high standard of design and layout that respects the character and context of the locality.

Living conditions

52. The installation of the first floor door in the rear elevation of the two storey rear extension facilitates access onto the roof of the single storey side to rear extension. The Council's concerns relate to the use of that roof as a balcony/roof garden with a resultant loss of privacy through overlooking.
53. I find those concerns to be well-founded; from standing on the roof of the rear part of that extension, I was able to see clearly into the rear gardens of neighbouring properties and back towards the nearest first floor window in the adjoining dwelling.
54. The appellant argues that the notice does not allege any change of use to a terrace and this concern is simply speculation. He says any use of the flat roof as a terrace would be a breach of planning control and subject to enforcement action in the usual way, and that the opening itself does not cause the overlooking or loss of privacy as stated in the notice.
55. However, s55(2)(d) of the 1990 Act provides that the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such, shall not be taken for the purposes of the Act to involve development. Therefore, notwithstanding that the ground floor extension is unlawful, the use of its roof for a terrace, would unlikely amount to a breach of planning control in itself.
56. Consequently, facilitating such a use through the installation of the door results in significant harm to the living conditions of neighbouring residents through a loss of privacy, both in actual and perceived terms, contrary to London Plan Policy D3 and HLP Policy GR1. Those policies seek to ensure, amongst other things, that the amenity of existing, future, and neighbouring occupiers is safeguarded.

Other Considerations and Green Belt Balance

57. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances and that very special circumstances will not exist unless the potential harm to the

Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations⁶.

58. I have found that the single storey side to rear extension amounts to inappropriate development within the Green Belt for the purposes of the Framework, London Plan Policy G2 and HLP Policy GI1, and results in a minor loss of openness, which is highlighted in the Framework as one of the Green Belt's essential characteristics. I have also found that the combined form of the single storey side to rear extension is harmful to the character and appearance of the area.
59. In support of the appeal, the appellant has produced a letter from his doctor setting out his medical conditions, and that of his wife, which have resulted in her losing her job. The doctor's view is that because of their combined conditions, the appellant and his wife are going through some very difficult and challenging times. Based on the appellant's demeanour at the time of my site visit, that is evidently the case.
60. Therefore, whilst I fully sympathise that the implications of the enforcement notice will no doubt add further distress to the appellant and his wife, the Framework requires that I apply substantial weight to the Green Belt harms identified. Against the same and the other harm identified, the totality of the other considerations (personal circumstances) do not clearly outweigh the permanent harm to the Green Belt and the other harms identified. I therefore find that the very special circumstances necessary to justify allowing the appeal do not exist.
61. As I have found that the installation of the door and the hard surfacing of the front garden do not amount to inappropriate development in the Green Belt, very special circumstances do not therefore fall to be considered in relation to the same.

Conclusion

62. S177(1) of the 1990 Act provides that planning permission may be granted in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates. Consequently, I am able to make a split decision on ground (a) in respect of part of the matters which are clearly severable.
63. For the reasons explained above, I have found the hard surfacing of the front garden to be acceptable. As that is clearly a distinct and severable operation, I will allow the appeal insofar as it relates to the hard surfacing to the front garden and grant planning permission for the same. The Council does not suggest any conditions be imposed for that part of the breach and I consider none are necessary.
64. However, it does not follow that I should correct the notice to delete the requirements relating to the hard surfacing of the front garden because s180 of the 1990 Act provides that the requirements of the notice will cease to have effect so far as they are inconsistent with the planning permission.
65. I have also found the side extension to be acceptable in terms of its effect on the character and appearance of the area and, taken in isolation, the previous planning permission granted for a similar scheme would amount to very special circumstances which clearly outweigh the Green Belt harms. However, the side

⁶ Paragraphs 153

extension links into the rear extension. Consequently, I am unable to allow the appeal, insofar as it relates to the side extension, as it is not clearly severable from the rear extension.

66. I therefore find that the single storey side to rear extension is contrary to the development plan as a whole and material considerations do not indicate that aspect of the appeal should be determined otherwise than in accordance with the development plan. I reach the same conclusion in respect of the installation of the first floor door in the rear elevation. I will uphold the notice with corrections and refuse to grant planning permission in respect of those matters.
67. As the parties have had opportunity to make representation on the merits of the various parts of the breach of planning control, I am satisfied that no injustice will arise from me issuing a split decision.
68. I therefore conclude that the appeal should be allowed in part and dismissed in part.

Richard S Jones

INSPECTOR