



Appeal Decision

Site visit made on 26 March 2026

by **E Griffin LLB Hons**

an Inspector appointed by the Secretary of State

Decision date: 13th May 2026

Appeal Ref: APP/N5090/C/25/3358859

32 Marlborough Avenue, Edgeware HA8 8UT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Ariel Mozes against an enforcement notice issued by the Council of the London Borough of Barnet.
- The notice was issued on 3 December 2024.
- The breach of planning control as alleged in the notice is 'Without planning permission, the construction of front and side boundary walls with associated piers as shown in the approximate location of the red line on attached Image 1.'
- The requirements of the notice are to
 1. Either
 - i. demolish the front and side boundary walls and associated piers
 - or
 - ii. reduce the front and side boundary walls and associated piers to a height not exceeding 1m from ground level in order to comply with Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
 2. Permanently remove all constituent materials resulting from the works in 1. above from the property.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 ('the Act')(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. It is directed that the enforcement notice is varied by:
 - (i) deleting requirement ii in full and substituting it with "Reduce the height of the front boundary wall and the adjoining sections of the side boundary walls that form the returns adjacent to the highway and are located forward of the principal elevation as shown on the attached plan marked in red, so that no part of the boundary treatment in these locations exceeds 1 metre in height from ground level, in order to comply with Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)."
 - (ii) Deleting the words '2 months' as the period for compliance and substituting them with the words '3 months'.
2. Subject to the variations, 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.

Preliminary Matters

3. Since the appeal was made, the Council adopted the Barnet Local Plan 2021-2036 (the Local Plan) on the 4 March 2025. The policies contained within it supersede the references in the notice to the Barnet Core Strategy 2012 and the Development Management Policies DPD 2012. I have had regard to the new policies in reaching my decision and the Council did refer to Policies TRC01 and TRC03 of the then Emerging Local Plan in the enforcement notice.

Applications for costs

4. An application for costs was made by Ariel Mozes against the Council of the London Borough of Barnet. This application for costs is the subject of a separate decision.

The Notice

5. It is the duty of the Inspector to put the notice in order irrespective of the grounds of appeal. Requirement ii provides an alternative to demolition of the development and states 'reduce the front and side boundary walls and associated boundary walls to a height not exceeding 1m from ground level in order to comply with Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)'.
6. However, the wording lacks clarity when the Council has stated that its intention was not to require all of the development to be reduced, only certain parts of it. The Council has proposed new wording and a plan which identifies the areas in red to the sides which are required to be reduced in addition to the front boundary with piers which is agreed by the appellant. The amended wording does not cause injustice to any party as it is not widening the requirement but providing clarity. I will therefore substitute the new wording for the original wording of requirement ii and add the new plan.

An appeal under ground (a) and the Deemed Planning Application

Main Issues

7. The main issues are the effect of the development upon i) the character and appearance of the surrounding area and the appeal property and ii) highway safety.

Character and Appearance

8. Frontages on Marlborough Avenue are largely open in character with low dwarf walls to the pavement where walls exist. The appeal property is a two storey semi-detached dwelling. The Council has provided a photograph of the front of the appeal property prior to the development taking place. It had a largely open front with two sections of dwarf walls to the front of the appeal site with a grass frontage.
9. No 34 is the adjoining semi-detached property and it has an open front with no walls or fences. No 30 to the other side has a long curved boundary due to its corner location and has a low dwarf front boundary wall between the garden and the pavement. Other properties along Marlborough are predominantly open at the front with low walls where walls exist. Piers are not a prominent feature but where they exist, they are proportionate to wall heights.

10. The appeal property itself has been extended with a two storey side extension. It has been remodelled and has a more modern appearance and is finished in white. The frontage has also been altered with the removal of the dwarf walls and the garden. The new boundary treatment which is being enforced against consists of brick walls with a variety of colours to the front and side with six taller piers across the front boundary. The majority of the piers and walls also have grey borders at the top. The extent of the development particularly the combination of piers and coloured bricks makes it visually incongruous in comparison to both the appeal property and the modest boundary treatments in the surrounding area.
11. There was a simple wooden fence at the shared boundary between the appeal property and No 30 before the development took place. However, that side boundary treatment now consists of a pier at the corner, a lower section of wall and a higher section of wall furthest from the pavement. The existing side element is not therefore comparable to a wooden fence in terms of design, materials or appearance. It is also not viewed in isolation as a side boundary but as part of the development as a whole. Similarly, whilst parts of the front boundary may be 'marginally higher than 1 metre', they are interspersed with piers which are well in excess of 1 metre.
12. There are gaps to the front boundary treatment including an access gap to steps to the front door and the other gap is intended to provide vehicular access in the future. However, the presence of those gaps does not visually break up the development to any significant degree when the gaps are marked with tall piers at each 'end.' The appeal site does slope upwards from the road towards the front of the appeal property. However, this is an existing physical feature rather than a matter to discount when assessing the development.
13. The design, scale, siting and height of the development is incongruous and out of keeping with the character and appearance of the surrounding area. Although the appeal property has been extended, the development is also overly dominant in terms of mass and design in comparison to the front of the property itself which is of a simple design.
14. The appellant has referred to the need to create a physical division to stop people meandering onto their property. However, I have no details as to why the original dwarf walls did not achieve that purpose or what other less prominent options were considered. A physical division does not have to include piers. Similarly, whilst the appellant wishes to reduce opportunities for crime, properties on Marlborough Avenue have open or low frontages which provide natural surveillance including No 30 which is on the corner. The Residential Design Guidance specifically refers to walls defining the front of properties being kept low to increase natural surveillance to the street.
15. For the reasons given, I do find that the development does harm the character and appearance of the area and the appeal property itself. It is therefore in conflict with Policy CDH01 of the Barnet Local Plan 2024, which amongst other things, refers to development responding sensitively to the distinctive local character in terms of scale, massing and height.

Highway Safety

16. The Council states that there is a lack of visibility splays for the occupiers of the property for entry and exit which is a safety risk for pedestrians and drivers. It

refers to the same issue for drivers exiting and entering frontages to the properties either side of the appeal site.

17. Whilst there is an open frontage to the adjacent semi-detached property at No 34, their dropped kerb is not located in close proximity to the development. It is therefore unlikely that visibility of drivers exiting from that frontage across the dropped kerb will be impacted by the side wall. To the other side, No 30 has a parking space and a garage close to the boundary. However, prior to the development taking place, there was a solid wooden fence of approximately 2 metres high along this boundary. It is not clear why the development which varies in height at the side creates a safety risk which would justify a refusal on highway grounds.
18. Driving out of the appeal frontage to the road, the driver will clearly see cars driving along the road. Pedestrians passing by the appeal property will be aware that cars may be emerging due to the gap particularly when a number of properties along Marlborough Avenue have off-site parking. There are no specific comments from the highways department of the Council. The Council has referred to a breach of the Design Guidance Note 9 'Walls Gates and Railings' approved in 1994. There is no site specific information as to how the Guidance applies to this appeal.
19. On the evidence before me, I do not find that the development is a safety risk to pedestrians or drivers. The development is not therefore in conflict with Policy TRC01(B)(b) of the Local Plan which refers to refusing proposals that have an unacceptable impact on highway safety. I find Policies TRC02 and TRC03 of the Local Plan to be less relevant to the appeal as they relate to Transport Infrastructure and Parking Management.

Conclusion on ground (a)

20. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. I have not found that the development harms highway safety. However, I have found that there is harm to the character and appearance of the area and the appeal property. The development is therefore contrary to the development plan as a whole and there are no material considerations which outweigh this finding. The appeal under ground (a) fails.

The appeal under ground (f)

21. The appeal on ground (f) is that the requirements of the notice exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
22. The requirements are either to demolish all of the development or alternatively to comply with the amended requirement to reduce parts of the development as shown on the additional plan. The purpose of the notice is therefore to remedy the breach. The appellant states that the requirement to demolish all of the development is excessive when parts of the development are permitted development pursuant to the General Permitted Development Order. However, permitted development rights are not retrospective. The Council is therefore entitled to require demolition of all of the development to remedy the breach.

23. Nevertheless, the Council has provided for an alternative amended requirement to demolition. This requirement relates to reduction of the front wall and parts of the side walls. The requirement to remove materials is appropriate irrespective of which alternative the appellant chooses to comply with the notice. The requirements provide either for demolition or reduction of part of the wall which are not excessive requirements when the purpose of the notice is to remedy the breach. The appeal under ground (f) fails.

The appeal under ground (g)

24. An appeal under ground (g) relates to the period for compliance which is 2 months. The appellant states that 2 months is too short for works to be carried out and to install correct materials. However, the requirements are to either demolish or reduce elements of the development. Nevertheless, the appellant will need to consider which option he intends to pursue and arrange for the work to be carried out. I will therefore extend the compliance to 3 months. The ground (g) appeal succeeds to that limited extent.

Conclusion

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

E Griffin

INSPECTOR