



Appeal Decisions

Site visit made on 25 April 2026

by **A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 26 May 2026

Appeal A – D Refs: APP/M5450/C/24/3349151, 52, 53 and 54

81 Imperial Drive, North Harrow, Harrow HA2 7DU

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the “Act”).
- Appeals are made by Mr Vinod Patel (A) Mrs Hursha Patel (B) Mr Jaimal Patel (C) and Mr Rahul Patel (D) against an enforcement notice issued by the Council of the London Borough of Harrow.
- The enforcement notice was issued on 28 June 2024.
- The breach of planning control as alleged in the notice is the construction of an outbuilding in the rear garden.
- The requirements of the enforcement notice are to: (1) Demolish the unauthorised development and (2) remove from the land all materials and debris arising from compliance with the aforementioned requirement.
- The period for compliance with the requirements is 3 months.
- The appeals are proceeding on the grounds set out in section 174(2) (c) and (d) of the Act. Since the prescribed fees have not been paid within the specified period in Appeal A - D, the appeals on ground (a) and the applications for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed¹.

Summary of Decisions: The appeals are allowed and the enforcement notice is quashed after a variation in the terms set out below in the Formal Decisions.

Ground (c) – *do the alleged matters constitute a breach of planning controls?*

1. No. 81 is a detached property on the south-eastern side of Imperial Drive, located on a corner plot at the junction with Alfriston Avenue. The dwellinghouse has been altered and extended and there was a detached L-shaped outbuilding in the rear garden. The latter has been extended to form rectangular in-fill type structure and has a dual-pitched roof. I pause here because the notice alleges the construction of an outbuilding and requires the unauthorised development to be demolished, but that seems excessive given the existence of the L-shaped building. I will return to this issue in later.
2. In 2007 planning permission was granted for the conversion of a detached rear garage to playroom and extension to provide garage/workshop with access from Alfriston Avenue². Clearly the as-built outbuilding, taken in its complete form, does not comply with the plans approved. In 2018, planning permission for the conversion and extension of the garage to be used as a self-contained annexe with parking was refused by the Local Planning Authority (LPA)³.
3. The officer’s report indicates the LPA deemed the proposal inappropriate because it afforded facilities for self-contained residential use although the appellants maintain the accommodation was required for their children for medical reasons. The LPA contends that the outbuilding’s intended residential use is demonstrated by the plans submitted with the application. It would comprise a hallway entrance, an open-plan living and kitchen area, a bathroom and two rooms:

¹ It appears the appellants wish to add the deemed application so planning merits can be considered. However, there is no power to add ground (a) once the deadline for the payment of fees due is passed.

² Council ref P/1336/07.

³ Council ref P/2458/17.

an area labelled as workshop/playroom and would have a floor area of 12.4 square metres. A bedroom would have a floor area of 14.7 sqm and the overall GIA for this unit would be some 82 sqm. On the other hand, there is no evidence to cast doubt on the claim that the extended garage has not been used for primary residential purposes since building operations were substantially complete. Indeed, I observed that the structure appeared to be used for incidental storage purposes and there is nothing from the Council to show the outbuilding was in residential use during the period leading up to the issuing of the notice.

4. Article 3, schedule 1, part 2 class E to the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO) grants planning permission for the provision of any building required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure. Those permitted development rights are subject to several conditions and restrictions, listed at paragraphs E.1 to E.3. I consider that, given the bolt-on nature of the construction and external fenestration detail, the latter can reasonably be regarded as an improvement and provided the extension meets the conditions and limitations, it is permitted development.
5. The appellants sought professional advice. They suggest that the extension or improvement to the existing garage meets all the conditions and limitations set out in paragraph E.1, but there is a mishap. They were advised if the "wing" extension facing the house were added, as long as it is no more than 4 m in overall height for a dual-pitched roof, 2.5 m for a flat roof, no further forward of the existing and 50% of the curtilage is not covered by outbuildings, it was permitted under Class E. Although the development satisfies paragraph E.1 sub (e)(i), the problem is criterion (ii). This explains that, in a scenario where the outbuilding is located within 2 m of any boundary, it cannot exceed 2.5 m in height and that limitation is not restricted to flat roofs. If the former applied only to the latter, it would have been included in the text given the difference between a flat and dual-pitched roof.
6. As the outbuilding, in its existing and extended forms, is located within 2 m of the site's boundary, it breaches paragraph E.1(e)(ii). The operational development involved in the erection of the extended outbuilding cannot be permitted by GPDO class E. Express planning permission is required, and it has not been obtained. Ground (c) must fail.

Ground (d) – is it too late to act?

7. In short, yes: here is why. The Act provides that no action may be taken in respect any operational development after the end of the period of 4 years beginning with the date on which the operations were substantially completed, unless the breach occurs on or after 25 April 2024 and the period is ten years. The key phrase is substantially completed and has specific meaning in planning law, which is derived from established case law. Notably, *Sage v SSETR & Maidstone BC* [2003] UKHL 22 as qualified in *Hillside Parks v Snowdonia NPA* [2022] UKSC 30.
8. I have carefully considered and reviewed all the evidence presented including the bundles of documents and photographs taken in 2023. The Council suggest the extension was not substantially completed by the relevant date and an anonymised letter from a resident also questions the immunity claims. Nonetheless, in terms of the timings, sequence and the nature of the work done, I find consistency in the evidence presented. There is nothing to cast doubt over the appellants clear statement that building operations commenced around 2015. Although a snapshot in time, the existing L-shaped outbuilding is clearly visible in the 2016 aerial image. Accumulation of building material is also noticeable in the image but by 2019, the outer walls of the extension combined with the main structural elements of the roof are visible.

9. The appellants version of the events tallies with the submitted documentary evidence. For example, by April 2020 the pitched roof was insulated with multi foil and PIR boards to allow for the installation of solar panels, which required specific components added to the roof structure probably before the roof tiles were added. Nevertheless, it seems to me that the extended outbuilding's form and main structural elements had been erected with a weather tight roof structure. The eaves and verges were complete and doors and windows installed.
10. As I have said elsewhere, the extended part of the L-shaped outbuilding is used to store numerous items of domestic nature. The walls and ceiling are exposed, nevertheless there appears to be electric supply given the existence of lighting and sockets. To an untrained eye the interior's condition and the quality of the building work may have appeared rudimentary and incomplete, but it is not uncommon to find garden outbuildings of this kind with exposed internal blockwork or roof joists. As the appellants explain, this is a do-it-yourself project and that might explain why the interior appears rudimentary. Nonetheless, I consider that by April 2020 the structure was substantially complete given its external appearance and it looked like an extended garden building.
11. Pulling all the above points together and as a matter of fact and degree, contrary to the Council's arguments, in my assessment, the appellants' evidence is specific and precise in terms of the nature and timings of the building operations. The quantum of evidence sufficiently demonstrates, to me that, on the balance of probabilities, the extended part of the outbuilding was substantially completed by the relevant date. Enforcement action could have been taken by at least April 2020 because the extension together with the existing outbuilding were characteristic of a complete building given the built form and layout. So, ground (d) succeeds.

Other matters and overall conclusions

12. Although I am about to quash the notice, I should get the notice in order if I can use my powers of correction. In the light of my findings above, while the notice attacks the construction of an outbuilding, it is unfair and an overreach to require removal of the latter given the L-shaped outbuilding is lawful. Clearly, the Council's concern relates to the extended part of the existing outbuilding. For greater precision, the steps required should be varied so the notice only requires the extended part of the outbuilding to be removed. If I were to correct the steps required, no injustice would be caused to any party.
13. For all the above reasons and having considered all other matters raised including concerns about the future use of the outbuilding, as built, as annexe but that is a totally separate matter, I conclude that the appeals fail on ground (c). I further conclude that the appeals should succeed on ground (d). On the date that the notice was issued, no enforcement action could be taken, on the balance of probabilities, in respect of any breach of planning control which may be constituted by the alleged operations. The enforcement notice will be quashed after variation.

Appeals A to D - Formal Decisions

14. It is directed that the enforcement notice is varied by the deletion of the text at section 5 subparagraph (1) and substitution therefor by the following text: *Demolish the extended part of the existing L-shaped outbuilding.*
15. Subject to this variation, all the appeals are allowed, and the enforcement notice is quashed.

A U Ghafoor

INSPECTOR