



Appeal Decisions

Site visit made on 25 March 2026

by **E Griffin LLB Hons**

an Inspector appointed by the Secretary of State

Decision date: 29 May 2026

Appeal A Ref: APP/N5090/C/24/3352362

Appeal B Ref: APP/N5090/C/24/3352363

Land at The Lincolns, Hendon Wood Lane NW7 4HS

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - Appeal A is made by Ali Al-Allaq and Appeal B is made by Amal Al-Allaq against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice was issued on 9 August 2024.
 - The breach of planning control as alleged in the notice is 'Without planning permission, the installation of 2 external air conditioning units on the side elevation of the property'.
 - The requirement of the notice is to permanently remove the air conditioning units from the property.
 - The period for compliance with the requirements is 3 months
 - Appeals A and B are proceeding on the grounds set out in section 174(2)(b), (c), (e) and (g) of the Town and Country Planning Act 1990 ('the Act') (as amended).
-

Decisions

Appeals A and B

1. It is directed that the enforcement notice is varied by:
 - (i) the deletion of the words '*3 months*' as the period for compliance and its substitution with '*5 months*.'
2. Subject to the variation, the appeals are dismissed and the enforcement notice is upheld.

Preliminary Matter

3. The appeals are proceeding on the grounds of (b), (c), (e) and (g). As there is no ground (a) which would have included an application for planning permission, I am unable to consider the planning merits of the development including noise levels.

An appeal under ground (e)

4. An appeal under ground (e) is made on the basis that copies of the notice were not served as required. Section 172(2) of the Act requires that a copy of the enforcement notice shall be served: on the owner and the occupier of the land to which it relates and on any other person having an interest in the land being an interest which in the opinion of the authority is materially affected by the notice.
5. Notices were received by the appellants. However, they state that the notices should not have been served at the appeal property as they were not living there at the time of service. The notices are dated 9 August 2024 and were served on 12 August 2024. Whilst the appellants lodged appeals on 22 September 2024, they state that there was insufficient time to appeal under ground (a) by the time they collected the notices.

6. At the time of service, the appellants did not visit the appeal property often as it was not ready for occupation. Whilst I note that the appellants did not move into the property until January 2025, there is no suggestion that the appellants were not the owners of the appeal property when the notice was served. There is also no evidence before me to indicate that the appellants informed official bodies such as the Council that post needed to be sent to a different address if the appellants were not proposing to attend at the appeal property on a regular basis.
7. If I had found that there was a failure to serve, Section 176(5) of the Act states that if a person required to be served with a copy of the enforcement notice was not served, that fact may be disregarded if, the appellant or that person is not substantially prejudiced by the failure to serve.
8. The appeals are made under grounds (b),(c), (e), (g) with no ground (a). However, in the appeal form, the appellants state that the development which consists of two air conditioning units does not require planning permission. The appellants did receive the notices and were able to appeal on the grounds that they considered to be appropriate.
9. There was, in any event, no failure to serve and no other person has been identified who falls within the category of persons who should have been served, did not receive a copy of the notice and has, as a result of that failure, been substantially prejudiced. The appeal under ground (e) therefore fails.

The appeal under ground (b)

10. An appeal under ground (b) is that the matters alleged have not occurred as a matter of fact. The allegation is 'the installation of 2 external air conditioning units on the side elevation of the property'. The appellants state that when the notice was issued, the air conditioning units were not 'fully installed' as they were not connected to the mains or turned on. However, the air conditioning units only need to have been in situ on the side wall for the breach to have occurred as that would be sufficient for them to have been 'installed.' The matter alleged in the notice which is the installation of 2 air conditioning units has occurred as a matter of fact. The appeal under ground (b) therefore fails.

The appeal under ground (c)

11. This ground of appeal is that what is alleged does not amount to a breach of planning control. The burden of proof is on the appellants and the relevant test is the balance of probabilities. For example, the appellants need to demonstrate that 'development' has not occurred for the purposes of Section 55 of the Act and express planning permission is therefore not required or that the air conditioning units constitute permitted development.
12. The appellants state that they were unable to find any information on the Council's website about air conditioning units needing planning permission and their installer indicated that planning permission was not required. They refer to reliance upon air conditioning units being permitted development.
13. Section 55 of the Act defines 'development' as including the carrying out of building, engineering or other operations in on over or under land. It comprises activities which results in some physical alteration to the land which has some degree of permanence. The air conditioning units are permanent additions to the

building with new wiring and pipework and therefore fall within the definition of development.

14. Section 55 of the Act does exclude from the definition of development works which do not materially affect the external appearance of the building and which could therefore be considered 'de minimis.' It is not just the exterior of the building that is to be considered but the effect on the building as a whole. This includes an assessment of the degree of visibility from different vantage points. There are no public views of the development from the road. However, vantage points need not be solely related to views from the public realm. Views from neighbouring buildings are capable of affecting the external appearance.
15. The air conditioning units have a utilitarian appearance which is in contrast to the dwelling house. They are positioned in an elevated location on a side wall of the detached dwelling. To the other side of the appellant's boundary, the dwelling known as Lasusa has a single storey attached garage with first floor bedroom windows beyond the garage. The air conditioning units are located in line with the upper floor of the appeal dwelling and will therefore be visible from the bedroom windows of Lasusa.
16. By reason of their physical attachment to the building and visibility from adjoining land, they result in a material alteration to the external appearance and cannot reasonably be regarded as de minimis. The installation of the two air conditioning units on the external side elevation constitutes operational development.
17. The Town and Country (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) grants planning permission for certain types of development, described as "permitted development" which does not require express planning permission. Schedule 2, Part 1 of the GPDO permits various development within the curtilage of a dwellinghouse, such as extensions, roof alterations, porches, chimneys, flues and microwave antenna. However, air conditioning units do not fall within the specified categories set out in Schedule 2 and do not therefore benefit from permitted development.
18. On the evidence before me, the air conditioning units do constitute development and in the absence of express planning permission or permitted development rights, there has been a breach of planning control. The appeal under ground (c) fails.

The appeal under ground (g)

19. An appeal under ground (g) relates to the period of compliance in the notice which is 3 months which would take the compliance period to around the end of August. The actual removal of the development is unlikely to take very long. However, in assessing what is a reasonable compliance period, I have to balance the public interest of compliance with the circumstances of the appellants. A longer period would enable them to consider their options in terms of location and apply for planning permission as appropriate. On balance, I consider a period of 5 months to be reasonable. The appeal under ground (g) succeeds to that extent.

Other matters

20. A number of matters raised by the appellants are outside the scope of this appeal. Any issues relating to the Council's investigations need to be directed to the

Council. The appellants are aggrieved that the Council took enforcement action when the air conditioning units were not operational and they maintain that the units are very quiet. However, I have found that a breach of planning control has occurred. Any future application for planning permission would need to address noise levels.

Conclusion

21. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a variation.

E Griffin

INSPECTOR