



Appeal Decision

Site visit made on 18 May 2026

by **A Walker MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 June 2026

Appeal A Ref: APP/T5150/C/24/3343721

3 Basing Hill, Wembley HA9 9QS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mrs Elisabeth Van Der Weit against an enforcement notice issued by the Council of the London Borough of Brent.
- The notice was issued on 25 March 2024.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the former garage to a dwelling, and, without planning permission, the installation of new hardstanding and a new garage door to the front of the premises. ("the unauthorised change of use and development").
- The requirements of the notice are:
 - STEP1 Cease the use of the former garage as a dwelling.
 - STEP2 Remove all fixtures and fittings associated with the unauthorised change of use, including the kitchen and the bathroom, from the former garage and premises.
 - STEP3 Remove all hardstanding to the front of the premises and install the soft landscaping on at least 50% of the front garden area.
 - STEP4 Remove the garage door to the front of the premises.
 - STEP5 Remove all associated items, waste, debris and materials, arising from the compliance with the above STEPS, from the premises.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (d), (f) and (g) 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.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with variations in the terms set out below in the Formal Decision. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal Ref: APP/T5150/W/24/3344602

3 Basing Hill, Wembley, Brent HA9 9QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs Reeza and Elisabeth Hameed and Van Der Weit against the decision of the Council of the London Borough of Brent.
- The application Ref is 24/0149.
- The development proposed is the use of existing outbuilding as residential annex, ancillary to the dwellinghouse.

Summary of Decision: The appeal is dismissed

The ground (b) appeal – Appeal A

1. In appealing on ground (b) the burden of proof is firmly on the appellant to demonstrate that the alleged breach of planning control has not occurred as a matter of fact. Section 174(2)(b) of the Town and Country Planning Act 1990 (the Act) is worded in the past tense, and the question is whether the breach had occurred by the date of issue of the enforcement notice. If the alleged activities or

structures had been on the site, an appeal on ground (b) cannot succeed simply on the basis that the activities ceased or structures were removed.

2. The enforcement notice (the notice) alleges a material change of use – the conversion of the former garage to a dwelling; and, operational development – the installation of hardstanding and a new garage door.
3. The appellant's reference to the converted building as being 'ancillary', is not accurate. The building provides primary living accommodation, ie kitchen, shower room, bedroom and living room. These are all ordinarily found within a dwelling. Therefore, it is not ancillary but part and parcel of the existing dwellinghouse.
4. Planning permission was granted in 2017 that included '*the conversion of the garage and outbuilding into a private study and library, with associated external alterations to include the blocking up of a side door and the replacement of the garage door with windows*'.¹ There is no dispute that the operational development has taken place. The crux of the matter is whether the building is an annexe, which is part and parcel of 3 Basing Hill, or a separate dwelling.
5. The building contains a kitchen, which includes an oven, hob, sink, washing machine, fridge and cupboards. It has a shower room and W.C. and a large bedroom/living room with a double bed, couch, TV and table and chairs. Overall, the building has all the facilities for a self-contained dwelling. However, this in itself is not the test of whether the building is in use as a dwelling. The functional connection with the main dwelling is also a consideration.
6. The main dwelling and the converted building share the same utility meters; postal address; Council Tax bill; and, waste. However, these in themselves are not determinative factors that the building is part and parcel of the existing dwelling.
7. The appellant contends that the building is in ancillary use as it is occupied by a family member who requires quiet space away from the family to continue their studies. However, there is ambiguity regarding the occupant of the converted building and their relationship with the occupants of the main dwelling. During the Council officer's site visit on 22 February 2023 it is stated that the officer spoke with a tenant of the main house who explained she did not have access to the converted garage. She also explained that the appellant is the landlord and they deal with matters relating to the garage. Moreover, the three letters from neighbouring residents that support the appeal all refer to the occupant of the building being the son of the appellant.
8. This evidence indicates that the appellant is the landlord of 3 Basing Hill, but does not live there, and the occupant of the converted building is their son. Therefore, there is significant ambiguity as to how the occupant of the building is related to the occupants of 3 Basing Hill, if indeed they are at all related. There is no evidence of whether the occupant of the building uses the facilities within the main dwelling for anything.
9. There is no physical boundary that prevents movement between the lawned area to the rear of the main dwelling and the converted building. However, there is a paved area to the rear of the converted building, which at the time of my site visit included domestic paraphernalia such as a table and barbecue. Therefore,

¹ Council reference 16/2089

although there is no defensible boundary between the main dwelling and the converted building, I find that there are distinctly separate rear garden areas for each.

10. I note the correspondence the appellant had with a Building Control officer regarding whether permission would be required for the installation of a kitchen. However, building regulations are separate legislation to planning permission. There is no evidence of an application for a certificate of lawful use or development being submitted to ascertain whether planning permission would be required.
11. On the evidence before me, given the self-contained nature of the building and the lack of clear evidence of any functional relationship with the main dwelling, on the balance of probabilities, I find that the building is occupied as a separate dwelling and therefore the matters alleged in the notice have occurred. The ground (b) appeal therefore fails.

The ground (d) appeal – Appeal A

12. The onus is on the appellant to demonstrate that at the time the notice was issued it was too late to take enforcement action against the alleged breach of planning control. The relevant test of the evidence is ‘on the balance of probability’ (ie that it is more probable than not). If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant’s version of events less than probable, there is no good reason to dismiss the appeal, provided their evidence alone is sufficiently precise and unambiguous.
13. The notice alleges ‘the installation of new hardstanding...to the front of the property’. It does not differentiate between the area of hardstanding to the front of the converted building and that to the front of the main dwelling. Therefore, I have determined the appeal on the basis that the notice attacks both areas.
14. The appellant’s ground (d) appeal only relates to the area of hardstanding to the front of the main dwelling. As the installation of a hardstanding is operational development, the relevant period of immunity from enforcement action is 4 years prior to the date of the enforcement notice being issued. There is no dispute that the remaining components of the alleged matters, including the area of hardstanding to the front of the converted building, are not immune from enforcement action.
15. The Google Street View image dated June 2014 depicts the hardstanding to the front of the main dwelling as installed. The area to the front of what was the garage is depicted as being concrete.
16. I find therefore, on the evidence before me, on the balance of probabilities, the area of hardstanding directly in front of the main dwelling was installed more than four years prior to the date the notice was issued. The ground (d) appeal, insofar as it only relates to this area of hardstanding, therefore succeeds. To reflect my finding on the ground (d) appeal, I shall vary Step 3 under Schedule 4 of the notice to ensure that it only requires the removal of the area of hardstanding to the front of the converted building. As this area of hardstanding was previously concrete, it would be unreasonable to require that 50% of it is soft landscaped.

The ground (a) appeal and the deemed planning application, and the S78 appeal – Appeal A and Appeal B

Preliminary matters

17. Section 177(1) of the 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’.
18. The ground (a) appeal is made on the basis that planning permission is sought for the use of the building as an annexe to 3 Basing Hill. However, the alleged breach of planning control is the material change of use of the building to a dwelling. The matters alleged make no reference to the use of the building as ancillary or annexe accommodation. Annexe accommodation does not form part of the alleged breach as described in the notice. Accordingly, I cannot consider the ground (a) appeal on the basis that planning permission is sought for the building to be used as an annexe to 3 Basing Hill. Therefore, the ground (a) appeal proceeds on the basis that planning permission is sought for the material change of use of the building to a dwelling and the operational development as alleged.
19. Moreover, the development proposal under Appeal B is described as ‘residential annex, ancillary to the dwellinghouse’. Notwithstanding the inaccurate description of the use of the building as ‘ancillary’, despite the appellant’s description of the development in Appeal B, it is clearly intended for occupation by the appellants’ son and there is no evidence that they would have any functional connection with 3 Basing Hill. It would clearly be occupied as a separate unit of residential accommodation. Accordingly, I have determined Appeal B on the basis that it would in fact be a separate dwelling.

Main issues

20. The main issues are:
 - The effect of the development on the character and appearance of the area, including the Barn Hill Conservation Area (the CA);
 - Whether the development provides adequate living conditions for existing and future occupants, with regard to internal floor space and private amenity space.
 - The effect of the development on highway safety, with regard to parking; and,
 - The effect of the development on the living conditions of neighbouring residents, with regard to noise and disturbance.

Character and appearance

21. The appeal property is situated within the CA. Accordingly, I have applied the statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paid special attention to the desirability of preserving or enhancing the character or appearance of the CA.
22. The CA is a planned estate, dating from the 1920’s, comprised mainly of detached and semi-detached residences of mock Tudor style with a variety of architectural

features and detailing set within rectangular plots. The significance of the CA is principally derived from its architectural and artistic interest, because of its aesthetics, but also its historic interest due to the area's association with the celebrated landscape designer Humphry Repton.

23. Basing Hill is a residential street comprising two-storey, semi-detached dwellings. Although there is a variety of alterations to properties, their scale and general design is relatively consistent along the street. The set-back position of dwellings; low boundary wall frontages and wide, tree-lined pavements make a positive contribution to the leafy, suburban setting.
24. The appeal development results in the introduction of a small dwelling, which is in stark contrast to the scale and design of the two-storey properties on the street and fails to reflect the prevailing pattern of development on Basing Hill and the wider CA.
25. The roller shutter to the front of the building restricts the property from being read as a dwelling within the streetscene. However, the size and design of the shutter is more akin to a commercial or industrial unit, rather than a residential setting. It also appears too large for the frontage of the building as the box element encroaches onto the barge boards on the gable of the building. An alternative colour for the roller shutter would not overcome this harm. Overall, it appears as an incongruous feature within the streetscene.
26. The Barn Hill Conservation Area Design Guide (CADG) recognises that original front gardens are a distinctive feature of the CA and that, sadly, many of them have been paved over in recent years and boundary walls, hedges and fences removed. It seeks to protect this important characteristic by ensuring that, where hard surfacing is provided to accommodate off-street parking, at least 50% of the total front garden is retained and suitably landscaped with soft planting.
27. The hardstanding to the front of the converted building was previously concrete, as seen in the historical photographs. Therefore, it would be unreasonable to find that this should be soft landscaped, particularly as it is the only off-road parking for the appeal site. Nevertheless, the CADG states that any new hard surfaces should be formed using traditional materials such as cast concrete, pavers or loose gravel. Although the paving matches that to the front of the main dwelling, the result is a large expanse of impermeable hardstanding that fails to reflect the prevailing hardstanding and driveways of other properties on the street that comprise cast concrete or pavers. This exacerbates the incongruity of the development as a whole within the streetscene.
28. I find therefore, the development significantly harms the character and appearance of the area and fails to preserve or enhance the character or appearance of the CA. Its effect would be localised such that it would be 'less than substantial' harm. Nevertheless, the National Planning Policy Framework (the Framework) makes it clear that great weight should be given to the conservation of heritage assets.
29. The Framework states that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. No specific public benefits have been advanced by the appellant.

30. Overall, I find therefore the development significantly harms the character and appearance of the area and fails to preserve or enhance the character or appearance of the CA. As such, the development fails to comply with Policies DMP1, BD1 and BHC1 of the Brent Local Plan 2022 (the BLP), the CADG, and the provisions of the Framework, which, amongst other things, seek to ensure development complements the locality and sustains or enhances the significance of heritage assets.

Living conditions

31. Policy DC6 of the London Plan requires that a one person, one storey dwelling should provide a minimum of 37 sqm of gross internal floor area. The appeal development only provides 34 sqm and therefore falls short of the minimum requirement and consequently provides substandard accommodation.
32. In terms of private amenity space, there is a large garden to the rear of 3 Basing Hill and the converted building. Directly to the rear of the converted building is a paved patio area that is sufficient to meet the needs of the single occupant. Although there is no defensible boundary between this patio and the remaining garden behind No.3, I am satisfied that in the event I allow the appeal, a boundary fence could be secured via the imposition of a condition. Moreover, there is sufficient space to provide adequate bin and cycle storage, which again could be secured via conditions. I find therefore it would comply with Policy BH13 of the BLP, which seek to ensure that development of this sort provides a minimum of 20 sqm of private outdoor amenity space.
33. Overall, whilst the development could provide adequate private amenity space, the insufficient internal floor space results in an oppressively confined form of accommodation. As such, it does not provide adequate living conditions for existing and future occupiers. Consequently, it fails to comply with Policies DMP1, BH12 and BH13 of the BLP and Policy D6 of the London Plan, which seek to ensure development provides high levels of internal and external amenity, and restrict residential accommodation in outbuildings.

Highway Safety

34. There is no dispute the appeal site has a PTAL rating of 2. Policy T6.1 of the London Plan states that in such locations new residential development should not exceed 0.75 off-road parking spaces per 1-2 bedroom dwelling and 1 parking space per 3+ bedroom dwelling.
35. There is only one off-road parking space on the wider appeal site, ie No. 3 and the converted building, which is located to the front of the converted building. Whilst this is sufficient to meet the needs of the occupant of the converted building, it leaves no off-road parking provision for the occupants of No.3. As a consequence, the occupants of No.3 would be solely reliant on on-street parking.
36. During my site visit, I noted that there was on-street parking available along Basing Hill. Whilst I acknowledge that this was only a snapshot in time, there is no evidence before me that the demand for on-street parking on the street is so high that it cannot accommodate the parking provision needs of the occupants of No.3.
37. I find therefore, the lack of off-road parking provision would not have a significantly harmful effect on highway safety. As such, it complies with Policies DMP1 and

BT2 of the BLP and Policies T6 and T6.1 of the London Plan, which seek to ensure development provides adequate parking provision and does not have an adverse impact on the movement network.

Living condition of neighbouring residents

38. The Council contends the development causes material harm to neighbouring residents by way of noise and disturbance. However, it does not elaborate on how this occurs. The development is for a single occupant on an existing residential street. Whilst there may be some additional comings and goings from the wider site, as it is only one occupant it is unlikely that any noise generated through additional vehicle movements, general domestic activity etc would be so discernible to neighbours that it would significantly harm their living conditions.
39. I find therefore, there would not be any significant harm to the living conditions of the occupants of neighbouring residential properties, with regard to noise and disturbance. As such, it complies with Policy DMP1 of the BLP, which seeks to prevent noise and disturbance.

Conclusion on the ground (a) appeal and the deemed planning application, and the S78 appeal

40. I have found that the development has no significantly harmful effect on the living conditions of the occupants of neighbouring residential properties nor on highway safety. However, these are neutral effects and do not outweigh the harm the development has on the character and appearance of the area, including the CA and due to the lack of adequate living conditions for existing and future occupants.
41. For the reasons given above, having regard to the development plan and all relevant material considerations, planning permission should not be granted in response to either the ground (a) appeal against the enforcement notice and deemed planning application, nor to the Section 78 appeal against the refusal of permission. Therefore, the Appeal A ground (a) appeal and the deemed planning application, and Appeal B fail.

The ground (f) appeal – Appeal A

42. This ground of appeal is that the steps required by the notice to be taken, or the activities required by the notice to cease, 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.
43. The purposes of an enforcement notice are set out in s173 of the Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)). The notice requires the cessation of the use of the building as a dwelling and the removal of all of the alleged operational development that constitutes the breach of planning control. The purpose of the notice is therefore clearly to remedy the breach of planning control rather than remedy the injury to amenity.
44. The appellant argues that a lesser step would be to require the development to be altered so that it accords with planning permission 16/2089. However, that permission is no longer extant and therefore it is not possible to comply with its requirements.

45. I have also considered the removal of just the cooking items. However, the items identified in the requirements clearly facilitate the use of the building as a self-contained residential unit. Therefore, I do not consider that their removal would be excessive in order to remedy the breach of planning control, ie cease the use of the building as a dwelling.

46. I therefore conclude that the ground (f) appeal fails.

The ground (g) appeal – Appeal A

47. This ground of appeal is that the period for compliance is unreasonably short.

48. The time for compliance with the requirements of the enforcement notice is six months. The appellants argue that nine months is required to employ contractors to carry out the necessary works.

49. However, given the extent of the works required, I do not consider that six months is an unreasonable amount of time to carry out the works. I note there would be financial implications on the appellant in undertaking such works. However, there is no evidence before me of the extent of this and therefore I can only attribute this matter very limited weight.

50. I therefore conclude that the ground (g) appeal fails.

Formal Decision

Appeal A

51. It is directed that the enforcement notice is varied by:

- (a) The deletion of the words “Remove all hardstanding to the front of the premises and install the soft landscaping on at least 50% of the front garden area.” under STEP3 of Schedule 4 and their substitution with “Remove all hardstanding to the front of the former garage.”

52. Subject to the variation, 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.

Appeal B

53. The appeal is dismissed.

A Walker

INSPECTOR