



Appeal Decision

Site visit made on 12 May 2026

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2026

Appeal Ref: APP/N5090/C/24/3357534

13 Annesley Avenue, London NW9 5ED

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Ms Mingjuan Pan against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice was issued on 11 November 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a part single, part two storey rear extension and a rear garden outbuilding.
 - The requirements of the notice are to:
 - 1 Demolish the part single, part two storey rear extension and rear garden outbuilding.
 - 2 Permanently remove all constituent materials resulting from the works in 1 above from the property.
 - The period for compliance with the requirements is five months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is varied by:
 - 1) The deletion of five (5) months and its substitution with six (6) months as the time for compliance.
2. Subject to the variation, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matter

3. It seems, based on my observations and the submissions, that works may have been carried out to the single storey part of the extension since the Notice was issued. However, the appropriate time period for the consideration of a ground (c) appeal is at the time when the notice was issued and when the appeal is determined.

The appeal on ground (c)

4. The appeal on this ground is that the matters alleged in the Notice do not constitute a breach of planning control. The burden of proof is on the appellant to demonstrate that the matters alleged in the Notice do not constitute a breach of planning control.
5. The appeal on this ground is made in respect of the outbuilding only and is made on the basis that the outbuilding, excluding minor canopy elements was either an existing structure that underwent like for like repairs, which I take to mean an argument that there was no development involved, or that the outbuilding constitutes permitted development by virtue of Article 3(1) Part 1 Class E of The

Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).

6. Article 3(1) Part 1 Class E(a) of the GPDO grants planning permission, subject to limitations and conditions, for the provision within the curtilage of a dwellinghouse of any building, enclosure, swimming, or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such.
7. The dispute is whether the outbuilding was erected prior to the extension subject of the enforcement notice, such that it fails to comply with the limitation at E.1(b) – that the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse).
8. The appellant argued that in around May 2024, they removed plastic, shown in aerial images provided by the Council, and undertook a like-for-like repair or rebuild of the outbuilding. However, there is no detailed or substantive evidence to support this assertion.
9. It is evident from the Council's photographs in the emails to the appellant that work was at an advanced stage on the single storey part of the extension in April 2024, prior to the alleged works to the outbuilding. And, the aerial image dated 11 October 2024, which although not clear, appears to show the extension and outbuilding subject of the Notice.
10. It therefore appears that the alleged development took place between around April 2024 and October 2024. Given the relatively short period of time, it seems, on the balance of probabilities, the part single, part two storey rear extension and outbuilding were carried out as and constitute a single act of development.
11. Accordingly, the appellant has failed to demonstrate, on the balance of probabilities, that the outbuilding was erected before the part single, part two storey rear extension. Since it fails the limitation at E.1(b) it is not permitted by virtue of Class E of the GPDO.
12. The appellant also stated that once the minor canopy overhangs, which the appellant has agreed to remove are excluded, the ground coverage falls well within the 50% curtilage limit set out in Class E.1(b). However, whilst the appellant can rely on matters which have occurred since the notice was issued, permitted development rights cannot be claimed retrospectively, if the outbuilding exceeded those limits when it was erected, it would not be permitted under the GPDO even when it was subsequently altered.
13. The appellant has failed to demonstrate that the erection of the outbuilding does not constitute a breach of planning control. The development is not development that is permitted by any development order and there is no record of planning permission having been granted for it. The appeal on ground (c) therefore fails.

The appeal on ground (f)

14. The appeal on ground (f) is that the requirements of the notice exceed what is necessary.

15. The purpose of the enforcement notice is to remedy the breach of planning control and demolition of the extension and outbuilding is consistent with that purpose such that the land is restored to its previous condition.
16. However, the enforcement procedure is intended to be remedial rather than punitive. Consequently, it is open to me, and I am required to consider whether there is an obvious alternative which would overcome the planning difficulties at less cost and disruption.
17. The appellant's case is that the requirements be varied so that in broad terms, they require the single storey part to be altered in accordance with the plans for that previously granted prior approval and the first-floor part altered in accordance with planning permission reference 24/0761/HSE.
18. Although the appellant did not appear to argue that the extension does not constitute a breach of planning control, they stated that the single storey part was initially built in accordance with that granted prior approval, reference 23/4505/PNH, and the additional 1.9m was added at a later date, as a separate and distinct building operation. However, there is no substantive evidence to support this.
19. As already stated, it seems, on the balance of probabilities, the part single, part two storey rear extension and outbuilding were carried out as and constitute a single act of development. It follows that the development in its entirety amounts to a breach of planning control.
20. Whilst the breach of planning control could be remedied by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, there is no single scheme which granted planning permission for the development carried out. Accordingly, even if the extension were altered to comply with the details granted prior approval and planning permission, that would not remedy the breach of planning control.
21. In pursuit of a lesser remedial option, I have considered whether the erection of extensions in accordance with the previously granted prior approval and planning permission, after the extension has been removed, would be a realistic and substantive fallback position. However, since there is little evidence that the appellant would restore the dwelling to its original condition and re-build the single storey and first floor extensions as separate and discrete acts of development, I attach little weight to this fallback.
22. That the Council previously granted prior approval and planning permission would be a relevant consideration in the context of a planning application to retain the development however, there is no appeal on ground (a) and there can be no arguments about or consideration of the planning merits of the development under ground (f). Similarly, the effect on the environment of demolition, the costs associated with complying with the requirements, and the advice offered by the Council's Planning Officer in respect of reducing the size, are matters which have no bearing on this ground of appeal. The only consideration is whether the requirements exceed what is necessary to achieve the identified purpose.
23. I have carefully considered the suggestion that requiring compliance with the details of the prior approval and planning permission would be a less punitive

alternative that could be achieved with less cost and disruption to the appellant. However, for the reasons given, that is not an appropriate course of action. Since the steps required to be taken by the notice do not exceed what is necessary to remedy the breach of planning control, the appeal on ground (f) fails.

The appeal on ground (g)

24. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant requested a period of nine months largely based on the need to find alternative accommodation whilst the remedial works take place and to appoint the relevant trades people.
25. The purpose of the time period within an enforcement notice is to allow for the physical works associated with the notice to be removed. Whilst understandable, the appellant's submission largely relates to the time before the works can commence.
26. Nevertheless, and whilst there are no substantive details or explanation about the availability of alternative accommodation or contractors, I consider the demolition works would be disruptive for occupiers of the property and it seems that an extension of the period to six months would be reasonable and proportionate.
27. The appeal on ground (g) succeeds to this extent.

Conclusion

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

Felicity Thompson

INSPECTOR