



Appeal Decisions

Site visit made on 13 July 2026

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2026

Appeal A Ref: APP/A5270/C/24/3354537

Appeal B Ref: APP/A5270/C/24/3354538

13 Alfred Gardens, Southall UB1 2BD

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made by Mr Karamjit Girdhare (Appeal A) and Mrs Harjit Girdhare (Appeal B) against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The notice was issued on 18 September 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission: the construction of a rear canopy extension.
 - The requirements of the notice are to:
 - Demolish the rear canopy extension.
 - Remove all resulting debris from the land.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d) 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.
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Decisions

1. The appeals are dismissed, and 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

2. The appeals have only been lodged under grounds (a) and (d). However, it is clear from the substance of their appeal submissions that the appellants are also seeking to appeal under ground (c), in so far as they state that the rear canopy is a temporary structure and is not a permanent structure. As the Council have provided detailed comments on the appellants' statement, I am satisfied that neither party would be prejudiced by the inclusion of this. I have therefore determined the appeal on this basis.

The appeals on ground (c)

3. This ground of appeal is that the development enforced against did not constitute a breach of planning control. The burden of providing relevant facts in this appeal rests with the appellants, and the test of the evidence is the balance of probability.
4. Under s55(1) of the 1990 Act, 'development' comprises two limbs:
 - 1) The carrying out of building, engineering, mining, or other operations in, on, over or under land (operational development);

- 2) The making of any material change in the use of any buildings or other land.
5. It is clear that the allegation is referring to 'operational development,' and that the installation of canopy relates to a 'building operation.' Operational development' comprises activities which result in some physical alteration to land which has some degree of permanence. The term 'building operations' is defined for the purposes of the 1990 Act in s55(1A) as including:
 - (a) demolition,
 - (b) rebuilding,
 - (c) structural alterations of or additions to buildings, and
 - (d) other operations normally carried on by a person in business as a builder. The list is not exhaustive.
6. S55(2)(a) of the 1990 Act excludes from the definition of development works for the maintenance, improvement, or other alteration of any building which:
 - (i) affect only the interior; or
 - (ii) do not materially affect the external appearance of the building. (Materially affecting the external appearance means an impact capable of having some effect in planning terms.)
7. With regard to s55(2)(a)(i), the canopy does not affect only the interior of the building. Turning to s55(2)(a)(ii) the canopy, rising well above the boundary fence is highly prominent in views from a number of neighbouring gardens and windows. Due to its construction and permanence, the canopy is not a temporary structure. Furthermore, the canopy amounts to a building operation given that it was clearly intended to be permanently in one place, being physically attached to the rear of the property and the ground, and it resulted in a physical change to the characteristics of the land, enclosed on both side boundaries and with a plastic roof. As a matter of fact and degree, these works materially affect the external appearance of the building as a whole and therefore are not exempt from the definition of 'development' under s55(2)(a).
8. I have also considered whether the canopy complies with Article 3, Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). However, Article 3, Schedule 2, Part 1, A.1 (f)(i) of the GPDO requires that the canopy should not extend beyond the rear wall of an original terraced dwellinghouse by more than 3 metres. The canopy clearly projects more than 3m from the rear wall of the original dwellinghouse. Therefore, the canopy does not accord to the stipulations of Schedule 2 Part 1 Class A of Town and Country Planning (General Permitted Development) (England) order 2015 (as amended).
9. I therefore find that, on the balance of probabilities, the matters stated in the notice amount to a building operation for the purposes of s55 of the 1990 Act. Planning permission is required for these works. There is none in place, and the works are not permitted development. Therefore, based on all the evidence before me, there has been a breach of planning control, and the appellants have not discharged the onus to demonstrate otherwise.

The appeals on ground (d)

10. The onus is on the appellants under ground (d) to make the case that, at the time the enforcement notice was issued, it was too late to take action against the matters stated in the notice. The enforcement notice is directed at the alleged construction of a rear canopy extension. Consequently, the appellants need to show that the matters alleged in the notice occurred at least 4 years before it was issued (which was 18 September 2020).
11. The appellants consider that the rear canopy was originally installed in 2011, and that following planning permission approved in April 2020 for the larger rear extension (the 2020 extension), that development together with the temporary rear canopy was completed in mid-2020. However, no substantive evidence has been submitted by the appellants to support this claim. Even without the countering evidence of the Council, the appellants have not met the required standard of proof in their own submission.
12. The Council's evidence contradicts the appellant's claim. In particular, aerial photographs have been provided which show that the canopy did not exist in June 2015 but was in existence by April 2017. The canopy was then demolished in 2020 to make way for the 2020 extension. A new canopy was then erected attached to the rear elevation of the 2020 extension, and this forms a new development in a different location than the former canopy extension. However, aerial photographs and emails provided by the Council show that the canopy was not in existence in late May 2020 but was in existence by March 2021. It seems to me the evidence provided by the Council is clear, unambiguous and cogent.
13. In contrast, no clear corroborating evidence has been submitted by the appellants to demonstrate that the canopy was in existence on 18 September 2020, which is the pertinent date. It is well established in planning law that the onus rests with the appellants to make out his or her case. However, on the evidence before me, I find that burden has not been satisfactorily discharged in this particular case.
14. On the balance of probabilities, I conclude that at the time the Notice was issued it was not too late to take enforcement action against the alleged breach of planning control.
15. The ground (d) appeals therefore fail.

The appeal on ground (a) and the deemed planning application

Main Issues

16. The main issues are the effect of the development on:
 - the character and appearance of the host building and the area; and
 - the living conditions for the occupiers of Nos 11 and 15 Alfred Gardens, with particular regard to outlook.

Reasons

Character and appearance

17. The site relates to a two-storey mid-terraced dwelling in a residential area characterised predominantly by other terraced two storey properties of similar size and style. The appeal property has been previously extended with a 6m deep single storey rear extension with a flat roof and an outbuilding at the rearmost part of the back garden.
18. The appeal property has been further extended with a rear canopy extension (the subject of this appeal) attached to the single storey rear extension. The canopy when combined with the existing single storey rear extension extends the building considerably, well beyond the 6m depth previously approved, and well beyond those of both adjoining residential properties, which have constructed only more modest rear extensions.
19. Furthermore, the extension comprises poor-quality materials consisting of a timber post and frame and plastic roof and sides, which lack any architectural merit and fails to integrate with the existing materials of the property. In addition, owing to the presence of the existing rear outbuilding, only a relatively small amount of rear garden remains. In this respect, the excessive overall size, and depth of the rear canopy results in an obtrusive feature, which significantly erodes the sense of openness in this rear garden setting. Therefore, the effect of the development diminishes unacceptably the character and appearance of the host building and the area generally.
20. The canopy extension is not widely visible within the wider public realm. However, its presence is clearly apparent and in close proximity to neighbouring residential properties. I appreciate that there is a similar sized rear canopy/conservatory at No 9 Alfred Gardens. However, the Council confirm that that development is the subject of an enforcement notice and therefore is not authorised.
21. I therefore conclude that the development harms the character and appearance of the host dwelling and area, in conflict with Policy D3 of the London Plan, 2021 (London Plan) and Policies 7.4 and 7B of the London Borough of Ealing Development Management Development Plan Document, 2013 (DMDP). In combination, these require that development proposals ensure a positive visual impact, as a result of good architecture and layout, enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape.

Living conditions for the neighbouring occupiers of Nos 11 and 15 Alfred Gardens - outlook

22. The unauthorised additional canopy extension, attached to the existing 6m deep single storey rear extension, results in a large expanse of the flank wall of the timber posts and plastic sheets, built along the boundaries with Nos 11 and 15 Alfred Gardens.
23. Both 11 and 15 Alfred Gardens have constructed only modest-sized rear extensions to their properties. Consequently, the canopy appears as a dominant feature in the outlook from rear windows of these neighbouring properties at ground floor level and from their respective gardens. Furthermore, the canopy

risers above the existing boundary treatments and therefore results in greater harm. In this respect the unauthorised canopy creates an increased sense of enclosure to neighbouring occupiers of Nos 11 and 15, which harms their living conditions.

24. I therefore conclude that the canopy fails to provide acceptable living conditions for occupiers of 11 and 15 Alfred Gardens with regard to outlook. Accordingly, the development is contrary to Policy D3 of the London Plan and Policy 7B of the DMDP. Amongst other things, these state that new development must achieve a high standard of amenity for adjacent users and should deliver appropriate outlook.

Other Considerations

25. The appellants advise that canopy was constructed to provide privacy and essential support for their father and sister who have complex and challenging medical needs, and so the canopy is required for privacy and to aid their mobility and overall health and well-being.
26. Furthermore, in light of the enforcement notice I recognise that the failure of this appeal would result in the removal of the canopy used by the appellants' family. This would represent an interference with their rights under Article 8 of the European Convention on Human Rights, as incorporated by the Human Rights Act 1998.
27. I have considerable sympathy with the appellants' personal circumstances and can fully appreciate why they would wish to retain the canopy for his family members. Nevertheless, the Council highlight that permission has already been approved at this site for a 6m deep rear extension and a large outbuilding, both were approved in part on the basis of appellants' family medical needs. The evidence submitted does not explain why the canopy, in combination with these other developments, needs to be of the size constructed, and occupy such a large proportion of the original rear garden.
28. Furthermore, there are alternative lesser measures which could be explored to provide these personal benefits which do not result in harm to the character and appearance of the host building and area generally.
29. Due to the above factors, there is limited evidence before me to suggest that the removal of the canopy would have a disproportionate effect on the appellants' family when weighed against the planning harm set out above. As a result, I can only give the appellants' personal circumstances modest weight in my decision.

Conclusion on Ground (a) and the Deemed Planning Application

30. 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. The development harms the character and appearance of the host dwelling and area, and the living conditions of the neighbouring occupiers with regard to outlook in conflict with the development plan taken as a whole.
31. In exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010 (EA). The EA sets out the relevant protected characteristics which include disability.

Since there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the three equality principles set out in Section 149 of the EA. Nevertheless, having regard to the legitimate and well-established planning policy aims to protect the character and appearance of the area and the living conditions of neighbouring occupiers, in this case I consider that greater weight attaches to the public interest. Dismissal of the appeal is therefore necessary and proportionate, and it would not result in a violation of the human rights of the appellants' family.

32. Therefore, there are no material considerations that would lead me to a decision other than in accordance with the development plan in this case. For the reasons given and with regard to all other matters raised, I conclude that the appeal on ground (a) should fail, and the deemed planning application should be refused.

Conclusion

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

R. Satheesan

INSPECTOR