



Appeal Decision

Site visit made on 20 July 2026

by **Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 July 2026

Appeal Ref: APP/N5090/C/25/3360539

9 Ash Grove, London NW2 3LJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended.
- The appeal is made by Mr Zuhayr Amin against an enforcement notice issued by the Council of the London Borough of Barnet.
- The notice was issued on 13 January 2025.
- The breach of planning control as alleged in the notice is *without planning permission, the construction of a single storey rear extension and a roof extension involving rear dormer window*.
- The requirements of the notice are:
 - 1 *Demolish the roof extension involving a rear dormer window*
 - 2 *Demolish the ground floor rear extension*
 - 3 *Permanently remove from the site all constituent elements resulting from the work in 1 and 2 above.*
- The period for compliance with the requirements is: *5 months after the notice takes effect*.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f) and (g) of the 1990 Act (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.

Formal Decision

1. It is directed that the enforcement notice is corrected by:
 - the deletion of the word "window" at the end of section 3 of the enforcement notice, so that it reads as follows:

Without planning permission, the construction of a single storey rear extension and a roof extension involving rear dormer.
2. Subject to the correction, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the construction of a single storey rear extension and a roof extension involving rear dormer at 9 Ash Grove, London NW2 3LJ as shown on the plan attached to the notice.

Preliminary Matters

3. The appellant has exercised their right of appeal under grounds (a), (f) and (g). However, a significant proportion of the appellants representations are based on the argument that the development alleged in the notice has been in situ for over four years and thus would be immune from enforcement action through the passage of time. This issue should be correctly addressed under a ground (d) appeal, and I have referred to both parties of my intention to consider the appeal under this ground. Consequently, neither party has been prejudiced by this approach.

Appeal under ground (d)

4. An appeal under ground (d) is that, at the date the enforcement notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by the matters. The test of the evidence is the balance of probability, and the onus of proof is on the appellants. If the Council has no evidence to contradict or otherwise make the appellant's version of events less than probable, an appeal on ground (d) can succeed, provided that the appellant's evidence alone is sufficiently precise and unambiguous.
5. The appellant alleges the single storey rear extension has been in existence for over four years and submitted a lawful development certificate (LDC) to the Council to confirm as much. The Council refused the LDC¹ on two grounds. Firstly, they considered the development did not comply with the requirements of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). Secondly, that sufficient evidence had not been provided to demonstrate that the extension had been in situ for four years and thus was immune from enforcement action.
6. The appellant acknowledges that the single storey rear extension would not benefit as "permitted development" under the relevant section of the GPDO, however they question whether enforcement action could be taken in respect of the development, on the basis it had existed in excess of four years. Nevertheless, the appellant has advanced little in the way of evidence to confirm this.
7. Conversely, the Council have supplied photographic evidence dated between April 2020 until March 2022 highlighting the stages of development². They have also supplied details of the application forms³ submitted with the LDC application for the single storey rear extension (22/4038/191) and the retrospective planning application for the roof extension (22/0972/RCU). Here the appellant highlights that these works were completed in March 2021 and October 2021 respectively.
8. Therefore, based on the evidence before me, it has not been demonstrated with sufficient precision and unambiguity that either the roof extension or the single storey rear extension were substantially complete prior to 13 January 2021, given that the enforcement notice was issued on 13 January 2025. Enforcement action could therefore be taken against the matters constituted by the breach of planning control, and the appeal on ground (d) therefore fails.

Appeal under ground (a), the deemed planning application

9. A ground (a) appeal is that planning permission should be granted for the matters alleged in the enforcement notice. The main issues for this appeal are the effect of the development on i) the character and appearance of the host property and the surrounding area and ii) the living conditions of local residents.

Reasons

Character and appearance

10. The appeal site is a semi-detached house located on the northern side of Ash Grove in Cricklewood. The properties in the surrounding area are traditional in

¹ London Borough of Barnet Planning Ref: 22/4038/191

² Council Statement of Case – Appendix 1

³ Council Statement of Case – Appendix 2

design with many of these having been subject to alterations at both ground floor and roof levels at the rear. As such, whilst the character is one of traditional design there is significant variation in terms of the appearance of these properties, and in particular on the rear elevations.

11. During my site visit I noted several dormer and other roof extensions, including a similar development at the adjoining property at No 7 Ash Grove. The number and varying sizes and forms of roof extensions in the vicinity are visible from public vantage points. These examples add to the variation without detracting from its residential appearance as they are relatively minor additions to the dwellings in the area. Whilst I acknowledge that the development at the appeal site is large, the materials used, and design of the development are read within the context of the existing area. As such, the development does not appear as an incongruous feature.
12. The London Borough of Barnet – Residential Design Guidance Supplementary Planning Document (SPD) sets out that roof extensions should reflect the style and proportion of windows on the existing house. Whilst large, the roof extension as built, does not look out of proportion or out of scale in relation to the host dwelling, particularly given the size and positioning of the windows. Furthermore, the building proportions, form, materials and detailing of the roof extension is compatible with the local character given the existing surrounding roof scape.
13. With regard to the single storey rear extension, it is acknowledged that the depth is deeper than that of the adjoining properties. Whilst this creates additional volume it does not dominate the appearance of the host property, still providing a subordinate structure, tucked away at the rear compared to the larger mass and height at the front of the main dwelling. In this sense it would meet with the requirements of the SPD insofar as it does not look too bulky and prominent compared to the size of the main building. Moreover, it appears as a logical continuation to the host property. Given the relatively minor increase in ‘size’ from the existing extension, the current structure is not overly large or disproportionate in comparison with the original or existing dwelling.
14. Consequently, I am satisfied that both the roof and rear extensions complement the existing structure in a manner that would not be disproportionate or out of keeping with the original dwelling, or the surrounding area as a whole. The development therefore achieves good design as confirmed by policy D3 of the London Plan (LP) adopted March 2021; policies CDH01 and CDH05 of the London Borough of Barnet Local Plan 2021-2036 (BLP) adopted in March 2025; and the aims and objectives of the SPD that amongst other things, seek to maintain design quality.

Living conditions

15. It is acknowledged that the single storey extension is deep, projecting approximately 8.00 metres from the main rear wall and sitting across the full width of the main house, with a flat roof. The properties most affected by the rear extension are the adjoining houses at Nos 7 and 11. The closest openings of these properties to the appeal site are their rear ground floor doors and windows which serve habitable rooms. However, these openings have direct views over their gardens rather than towards the extension at the appeal site.

16. Given the orientation of the properties, the course of the sun, and therefore the direction of shadowing, the impact on sunlight as a result of the extension on No 7 is limited to the early morning only. Moreover, the large openings at ground floor level at this property allow a good degree of light to enter the habitable rooms. Even without more detailed British Research Establishment (BRE) tests, I am satisfied that the proposal maintains a reasonable relationship with the adjacent properties and does not lead to an excessive loss of daylight and sunlight.
17. The rear extension does increase the extent of the built form closest to the party boundaries. Nonetheless, the flat roof design means that overall, the height, scale and bulk is not of a level that gives rise to significant additional overshadowing, nor an undue sense of enclosure relative to the rear openings at Nos 7 or 11 or their garden areas. Neither does its overall presence significantly reduce the current aspect enjoyed by those occupants to an extent that would be overbearing.
18. Based on the individual circumstances of the scheme, the single storey rear extension whilst large and deep does not unacceptably harm the living conditions of the occupiers of the adjoining premises. As a result, the proposed development would comply with the relevant provisions of the policies of the LP and the BLP and would not be contrary to the aims of the SPD, which collectively seek to protect living conditions of neighbouring properties with specific regard to acceptable outlook, respecting privacy and avoiding significant adverse impacts on sunlight and daylight.

Conclusion on ground (a)

19. For these reasons, the development preserves the character and appearance of the host dwelling and the surrounding area and does not negatively impact on the living conditions of the adjoining properties. It is therefore consistent with the relevant sections of policy D3 of the LP; policies CDH01 and CDH05 of the BLP and the aims and objectives of the SPD. The development is also consistent with the overarching design objectives of the National Planning Policy Framework, insofar as it seeks a high quality of design and protect living conditions for neighbours.

Conditions

20. Given that the proposal is retrospective and is acceptable in terms of design and materiality, there is no need to attach the standard time limit, approved plans or a materials condition.

Overall Conclusion

21. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the corrected enforcement notice. The enforcement notice will be quashed.
22. In these circumstances the appeals on grounds (f) and (g) do not fall to be considered.

Robert Naylor

INSPECTOR