



Appeal Decision

Site visit made on 18 August 2026

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 August 2026

Appeal Ref: APP/N5090/C/25/3361348

27 Dale Grove, London N12 8EE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Dale Real Estates Limited against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice was issued on 16 January 2025.
 - The breach of planning control as alleged in the notice is: The construction of a single storey rear extension.
 - The requirements of the notice are to:
 - 1 Demolish the single storey rear extension.
 - 2 Permanently remove all constituent materials resulting from the works in 1. above from the property.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f), (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.
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Decision

1. It is directed that the enforcement notice is:

- Varied by deleting steps 1) and 2) under section 5 (what you are required to do) and substituted therefor by the following steps:
 - “1. Demolish the single storey rear extension; or
 - 2. Carry out the development strictly in accordance with planning permission ref: 22/3504/HSE, so as to comply with the terms of this permission, including its conditions and limitations; and
 - 3. On completion of steps 1 or 2 above remove all materials and debris from the site.”
- Varied by deleting the words “3 months” within section 6 (time for compliance) and its replacement with “9 months”.

2. Subject to these variations, the appeal is 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.

Applications for costs

3. An application for costs was made by Dale Real Estates Limited against the London Borough of Barnet. This application will be the subject of a separate Decision.

Preliminary Matters

4. During the course of this appeal, the Barnet Local Plan Development Management Policies DPD, 2012 (DPD) and Barnet's Local Plan Core Strategy DPD, 2012 (CS), have been replaced with the Barnet Local Plan, adopted in March 2025 (BLP). This must now be given full weight in the decision-making process. The Council have provided copies of the relevant BLP policies during the course of the appeal, and I am satisfied that both main parties have not been prejudiced. I have therefore not assessed the development against the policies of the superseded DPD and CS.

The appeal on grounds (b) and (c)

5. To succeed on ground (b), the appellant must demonstrate that the allegation has not occurred as a matter of fact. For ground (c), the appellant must demonstrate that the development enforced against does not constitute a breach of planning control. The onus of proof lies with the appellant, the relevant test of the evidence being the balance of probability.
6. Under both grounds, the appellant accepts that the rear extension has been built but contends rather that the allegation should read "construction of a single storey rear extension not in accordance with the approved plans, due to the difference in height from the approved plans in planning permission ref: 22/3504/HSE for a "single storey side and rear extension" approved on 8 November 2022.
7. However, the appellant's own statement¹ accepts that the extension has been built and that it is approximately half a metre taller than the approved scheme. As such, the as-built extension is materially and fundamentally different to the approved scheme. Indeed, the difference in height from the approved scheme cannot be considered to be 'de minimis,' and I am satisfied that the description in the Notice correctly identifies the breach.
8. I have also considered whether the extension 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 (i) of the GPDO requires that the height of the eaves of the extension should not exceed 3m in height where it is within 2m of the boundary of the curtilage of the dwellinghouse. The extension is built along the boundary with No. 25 Dale Grove and clearly exceeds this height limitation. Therefore, the extension 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), and planning permission is required for these works.
9. Therefore, based on all the evidence before me, there has been a breach of planning control, and the appellant has not discharged the onus to demonstrate otherwise. Given the appellant accepts that the single storey rear extension has

¹ Page 9 of the appellant's statement.

been built and is fundamentally different to the extant permission, the appeal on both grounds (b) and (c) must fail.

Ground (a) appeal and the Deemed Planning Application

Main Issue

10. The main issue is the effect of the development on the living conditions for the occupiers of 25 Dale Grove with regard to outlook and overshadowing.

Reasons

11. Barnet's Local Plan Supplementary Planning Document Residential Design Guidance, 2016 (Design SPD) advises that single storey rear extensions need to ensure that: the depth and/or height of the extension does not cause a significant sense of enclosure, or loss of outlook from, or light to, principal windows of habitable rooms of neighbouring properties.
12. I appreciate that No 25 has a very modest single storey rear extension built close to the boundary with the appeal site. Nevertheless, during my site visit I observed that the excessive height, size, and bulk of the single storey rear extension built along the boundary with the neighbouring property at No 25, results in a visually intrusive and unneighbourly form of development for occupiers of this neighbouring property. Indeed, the outlook from the garden and ground floor window of No 25 was severely restricted by this taller and deeper extension resulting in an increased sense of enclosure for occupiers of this neighbouring property, which harms their living conditions. Furthermore, the excessive height and position of the extension immediately west of the boundary with No 25 results in overshadowing of part of the rear garden of No 25 in the afternoon.
13. In support of their appeal, reference has been made to what could be built under permitted development (PD) legislation. However, I have already found under ground (c), that this development exceeds the tolerances of the PD legislation, and is therefore more harmful. As such, PD rights do not lend support for the current unauthorised development.
14. I therefore conclude that the development fails to provide acceptable living conditions for occupiers of 25 Dale Grove with regard to outlook and overshadowing. Accordingly, the development is contrary to Policy CDH01 of the BLP, Policy D3 of the London Plan, 2021 (London Plan), and the Design SPD. Amongst other things, this states that development proposals must deliver appropriate outlook, privacy and amenity and that the Council will expect development proposals to provide a good standard of amenity that is consistent with other policies in the Plan and will allow for acceptable levels of daylight, sunlight, privacy and outlook for adjoining and potential occupants and nearby users impacted by the development.

Alternative scheme

15. Section 177(1) of the Act allows me to grant planning permission in respect of the matters stated in the Notice as constituting a breach of planning control, whether 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.

16. The appellant has suggested that 4 brick courses could be removed to reduce the height of the extension, and an unscaled 3D drawing² and an unscaled side elevation³ drawing have been provided within the appeal statement, in order to illustrate what this may look like. I consider that this alternative scheme, which involves revisions to the roof of the extension is part of the matters alleged and so I can therefore consider it.
17. However, both of these drawings are not to scale and therefore lack the necessary precision to be considered formally under the deemed planning application, since neither drawing clearly illustrates what the proposed height of the extension would be. On the basis of the limited information before me, I am not convinced that the reduction by only 4 brick courses, would be sufficient to overcome the harms identified above, with regard to outlook and overshadowing.
18. I note that an earlier email correspondence has been provided between the agent and an Officer dated 10 February 2025 where the Council Planning Officer states that he would have no objection to a proposed alteration to the height of the extension to approximately 20cm higher than the approved scheme. However, that is an informal view of one Officer and does not represent a formal decision by the Council. Furthermore, there is a need for precision, and given that there is no scaled drawing before me, it is unclear what was precisely proposed to the Planning Officer in that correspondence. As such, that correspondence does not overcome the objections raised above.

Conclusion on Ground (a) and the Deemed Planning Application

19. 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 living conditions of the neighbouring occupiers with regard to outlook and overshadowing in conflict with the development plan taken as a whole. The existing smaller extension at No 25 Dale Grove does not mitigate the harms I have identified above under the main issue. Furthermore, the 'alternative scheme' also fails to overcome these harms. Therefore, there are no material considerations that would lead me to a decision other than in accordance with the development plan in this case.
20. 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.

The appeal on Ground (f)

21. The appeal on this ground 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 (i.e. the matters alleged in the notice) or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".
22. The enforcement notice requires the demolition of the unauthorised development, and therefore, the purpose of the notice is to remedy the breach of planning control rather than only remedy any injury to amenity.

² Figure 4 of the appellant's appeal statement.

³ Figure 5 of the appellant's appeal statement.

23. The appellant states that the development could be reduced in size by 4 brick courses to mitigate the harm to the neighbouring living conditions. However, I have already considered this under the appeal on ground (a) and have found that no scaled drawings have been submitted to clearly illustrate what is proposed. On the basis of the limited information before me, I am not convinced that this proposal would overcome the harms identified under ground (a) appeal.
24. However, as outlined above, application ref: 22/3504/HSE, previously granted permission for an alternative side and rear extension. It is therefore necessary to consider whether this previous permission has expired. The fact that the as-built scheme is different does not necessarily mean that the planning permission has expired. The relevant question is whether or not it began (section 91 of the Act). Section 56(2) and (3) of the Act, provide that development shall be taken to be begun for the purposes of ss91 and 92 on the earliest date on which any material operation comprised in the development begins to be carried out. 'Material operations' are defined in s56(4) of the Act as including: any work of construction in the course of the erection of a building [s56(4)(a)], and the digging of a trench [s56(4)(b)]. Case law has established that works undertaken solely to keep a planning permission alive, when the developer has no intention of proceeding further at that time, can suffice to initiate development.
25. In this regard, the rear extension is in the same position to the previously approved scheme. Therefore, the overall foundation trench that was built would match the approved extension footprint, and parts of it would contain the foundations of the extension 'as built,' in accordance with s56(4)(b) of the Act. Significant parts of the ground works would relate to the earlier planning permission and be substantially usable in the permitted extension.
26. Case law has established that enforcement should be remedial rather than punitive. The breach of planning control could also be addressed through compliance with an alternative requirement that requires the development to accord with the terms and conditions of the approved planning permission ref: 22/3504/HSE. This would achieve the purpose of the notice which is to remedy the breach. Therefore, I will add an additional requirement to make the development comply with the extant planning permission which would also remedy the breach of planning control, in line with s173(4)(a) of the Act. Varying the notice on this basis would cause no injustice to either party, as it would not make it more onerous.
27. The appeal on ground (f) succeeds to that extent only, and I will vary the notice.

The Appeal on Ground (g)

28. The appeal on this ground is that any period specified in the notice falls short of what should reasonably be allowed. The appellant asks that the time for compliance is extended from 3 to 12 months, to allow time for the property to be vacated and to undertake the remedial works.
29. I have found under the ground (a) appeal that the development fails to provide acceptable living conditions for occupiers of No 25. As such, the 12 months requested by the appellant to comply with the notice appears disproportionately excessive to complete the requirements of the notice.
30. However, the time for completing the requirements should be what is reasonably considered necessary to complete the requirements and I note that the premises

appeared empty during the time of my site visit. In my view, 9 months would strike a more reasonable and proportionate balance to carry out the remedial works. This will also provide additional time to obtain planning permission for a revised scheme if the appellant so wishes. I shall therefore extend the period from 3 to 9 months.

31. To this extent, the ground (g) appeal succeeds, and I will vary the notice accordingly.

Conclusion

32. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variations 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