



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: 28 August 2026

Appeal Ref: APP/N5090/C/25/3361601

53 Essex Park, London N3 1ND

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Ms. Yuan Chen against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice was issued on 21 January 2025.
 - The breach of planning control as alleged in the notice is: Without planning permission, the construction of a 2-storey rear extension at ground and lower ground levels and terrace area with associated steps.
 - The requirements of the notice are to:
 - 1 Demolish the lower ground rear extension and terrace area with associated steps (annotated in red in Attachments 1 and 2).
 - 2 Restore the property to the status in the proposed plan (Proposed Floor Plans - (02)_110; Proposed Rear Elevations - (02)_210 A; Proposed Side Elevations - (02)_211 A, and Proposed Section A - (02)_310) from 24/0106/HSE.
 - 3 Permanently remove from the property of all constituent materials resulting from the works in 1. Above.
 - The period for compliance with the requirements is 8 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) 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 1-3, under section 5 (what you are required to do) and substituted therefor by the following steps:

“1 Demolish the lower ground rear extension and terrace area with associated steps (annotated in red in Attachments 1 and 2), and restore the property to the status in the Proposed Floor Plans - (02)_110; Proposed Rear Elevations - (02)_210 A; Proposed Side Elevations - (02)_211 A, and Proposed Section A - (02)_310) from planning permission ref: 24/0106/HSE; **or**

2 Carry out the development strictly in accordance with planning permission appeal ref: 6003574, so as to comply with the terms of this permission, including its conditions and limitations; **or**

3 Carry out the development strictly in accordance with planning permission ref: 25/4072/S73, so as to comply with the terms of this permission, including its conditions and limitations; **and**

4 On completion of steps 1 or 2 or 3 above remove all materials and debris from the site.”

2. Subject to this variation, 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.

Preliminary Matters

3. 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.

Ground (a) appeal and the Deemed Planning Application

Main Issues

4. The main issues are the effect of the development upon the:
 - character and appearance of the host building and the area; and
 - living conditions for the occupiers of 51 Essex Park, with regard to privacy.

Reasons

Character and appearance

5. The appeal site relates to a semi-detached house which backs onto West Finchley Station, where a public footbridge over the station platform overlooks the rear elevation and garden of the appeal site. The property has been previously extended with a full width rear dormer roof extension. More recently, the property has been extended with a two-storey rear extension together with a raised terrace area and steps leading down into the garden, (the subject of this appeal).
6. Barnet's Local Plan Supplementary Planning Document Residential Design Guidance, 2016 (Design SPD) advises that: two storey rear extensions need to ensure they do not lead to harm to the character or appearance of the property and area; and that basement extensions do not harm the established architectural character of buildings and areas.
7. I appreciate that a number of properties in the area have been extended at lower ground and ground floor level and have rear terraces, and therefore, these form part of the character of the area. Nevertheless, the 'as built' terrace comprises poor-quality materials consisting of unfinished timber post and frame, white plastic side panels and a plastic roof over the terrace and concrete steps, which lack any architectural merit and fails to integrate with the existing materials of the property. The extension at lower ground floor level is similarly clad in plastic panels with no fenestration detail. The concrete steps leading to the rear garden have a bulky appearance, when compared to wooden, open stallrisers seen elsewhere in the area. In these respects, the poor-quality materials and finish of the development diminishes unacceptably the character and appearance of the host building and the area generally.

8. The development is not widely visible within the wider public realm. However, its presence is clearly apparent and it is in close proximity to neighbouring residential properties and from the public footbridge over the station platform. Furthermore, despite the trees and vegetation being in leaf at the time of my site visit, views of the appeal site and the unauthorised development were clearly apparent from this public vantage point.
9. 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 Policy CDH01 of the BLP. Amongst other things, these require that development proposals be of high quality, with architecture that pays attention to detail and states that the Council will expect development proposals to respond sensitively to the distinctive local character and design, building form, patterns of development, scale, massing, roof form and height of the existing context.

Living conditions for the occupiers of 51 Essex Park, with regard to privacy

10. The Design SPD states that balconies and roof gardens will normally be acceptable where they do not result in overlooking which has a negative impact on the privacy of neighbouring residents.
11. I appreciate that the existing rear gardens are overlooked to a certain extent by the existing windows and terraces in the rear elevation of properties along the street. However, the 'as-built' full width terrace with associated concrete steps extends close to the boundary with the No 51 Essex Park, rising well above the existing garden level, coupled with the lack of sufficient screening along the boundary with No 51, results in a greater degree of overlooking into the neighbouring garden and property at No 51, and a further detrimental loss of privacy for these neighbouring occupiers.
12. I therefore conclude that the development fails to provide acceptable living conditions for occupiers of 51 Essex Park, with regard to privacy. 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, these state 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

13. 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.
14. The appellant has suggested two alternative proposals as part of this appeal should the 'as-built' development not be considered acceptable. However, since this appeal has been lodged proposal A has been allowed on appeal (appeal ref: 6003574), and proposal B, has been approved by the Council, and subsequently varied in a s73 application (Council ref: 25/4072/S73). As both of these alternatives have since been approved, I do not need to consider these further under this ground (a) appeal.

Conclusion on Ground (a) and the Deemed Planning Application

15. 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 building and area and harms the living conditions of the neighbouring occupiers with regard to privacy in conflict with the development plan taken as a whole. Therefore, there are no material considerations that would lead me to a decision other than in accordance with the development plan in this case.
16. 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)

17. 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".
18. The enforcement notice requires the demolition of the lower ground rear extension and terrace area with associated steps and restore the property to its condition before the breach took place. Therefore, the purpose of the notice is to remedy the breach of planning control rather than only remedy any injury to amenity.
19. However, as outlined above, two alternative proposals have since been approved planning permission (proposal A: Appeal ref: 6003574 and proposal B: Council ref: 25/4072/S73). There is no dispute that both of these planning permissions remain extant.
20. Case law has established that enforcement should be remedial rather than punitive. The breach of planning control could also be addressed through compliance with two alternative requirements that requires the development to accord with the terms and conditions of either of those permissions. This would achieve the purpose of the notice which is to remedy the breach.
21. Therefore, I will add two additional requirements to make the development comply with either of these extant planning permissions 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.
22. The appeal on ground (f) succeeds to that extent only, and I will vary the notice.

Conclusion

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