



Appeal Decision

Site visit made on 15 September 2026

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP
an Inspector appointed by the Secretary of State

Decision date: 29 September 2026

Appeal Ref: APP/N5090/C/25/3359644

Land at 35 Hillview Gardens, London NW4 2JJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Guy Friedberg against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The enforcement notice was issued on 17 December 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the property to a mixed use comprising part residential and part religious meeting and teaching place.
 - The requirements of the notice are to: 1 Cease the use of the property for public worship and for religious teaching and instruction (other than purely incidental to use of the property as a dwellinghouse). 2 Permanently remove from the property all tables, chairs and any other furniture or equipment associated with the use of the property as a religious meeting and teaching place.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) (b) (c) (d) (f) (g) of the Town and Country Planning Act 1990 as amended (the Act). Since the appeal on ground (a) has been made, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Decision

1. It is directed that the enforcement notice be varied by:

- deleting requirement 2 in section 5; and
- replacing "2 months" with "3 months" in section 6.

Subject to these variations, made due to successes on grounds (f) and (g), the appeal is otherwise dismissed and the enforcement notice is upheld. The application deemed to have been made under section 177(5) of the 1990 Act as amended is refused.

Procedural Matters

2. Since the notice was issued and the appeal made, the Council has adopted the Barnet Local Plan 2021-2036 (BLP). This supersedes the Local Plan (2012) comprising the previous Core Strategy and Development Management Policies Development Plan Documents. The policies of the emerging BLP had been cited in the reasons for issuing the notice, and the parties have had opportunities to make their cases in respect of them during the appeal process.
3. Further, the new National Planning Policy Framework (the Framework) was published on 17 August 2026. The parties were invited to make comments upon it as were relevant to their cases, but none were received.

Grounds (b) and (c)

4. For success on ground (b), I must be satisfied on the balance of probabilities that matters stated in the notice said to constitute a breach of planning control have not in fact occurred. To succeed on ground (c), I must be satisfied on the balance of probabilities that matters stated in the notice – if they have occurred – do not constitute a breach of planning control. On these legal grounds, the burden of proof sits with the appellant.
5. I am dealing with grounds (b) and (c) together because it is the appellant's case that there is no mixed use as alleged (ground (b)) and, intrinsically, that there is no resultant breach of planning control arising from an unauthorised material change of use to that mixed use (ground (c)).
6. Essentially, the appellant's stated case is:
 - The property is in sole use as a single-family dwellinghouse and is occupied by the appellant and his family. He has 3 sons (2 of whom are married and living away from home but visit on a regular basis, and a third son who studies in religious institutions – that individual enjoys studying religious texts and, as a family, they have built up an extensive library which is stored in the ground floor of their home).
 - As critical thinking is encouraged in Jewish liturgy which can be explored on an individual or group basis, it is not unusual for a collective of individuals to gather together in someone's house to discuss and debate texts in order to gain a deeper knowledge of their content. It is argued that the discussions that have taken place on a group and/or individual basis do not constitute a change of use as they have taken place within the context of the family living in the house and inviting their friends over to engage in meaningful discussion.
 - Further, the appellant says that prayers can take place in any location provided there is a quorum of 10 men over the age of 13. The residents themselves constitute 2 men and if the 2 other sons visit with a couple of friends each, a quorum (or minyan) can automatically be formed. As a matter of convenience, if they are altogether, they may decide to engage in prayer services. This can happen on a sporadic basis but it is argued not to constitute a change of use, especially as there are no permanent alterations and the property 'reverts' back to a single-family dwelling as soon as the prayer services are over which can be as little as 10 minutes for afternoon prayers.
 - The gatherings at the property are small, community-based meetings akin to social gatherings or book clubs. These activities are ancillary to the property's primary residential use and should not be considered a material change of use that requires planning permission. Allegations of large, daily gatherings lack substantial evidence and are based on assumptions. The meetings are a transient feature which can occur anywhere, including in different people's houses on a sporadic basis.
 - There is no paid membership and no defined structure. No teachers or rabbis are on a paid salary. The premises cannot be considered as educational facilities or as a place of worship in the same vein as a school or synagogue because the formal structure does not exist.

7. Further, while I have not seen a copy of the response to the Council's Planning Contravention Notice (PCN), the Council's Officer Report says that:

"In their response, the couple stated that "no services are held in the house which is in full residential use only". In summary as a religious people, they are part of a bible study and prayer fellowship, which meets at a number of homes in the community.

The couple added that fellowship meetings can be sporadic. There can be weeks or months where they do not host any meetings at all and there are random weeks where it can be a few times a day depending on the times of year and the situation in Israel. The group maximum is 10 - 15. Meetings could take 10 - 45 minutes.

They explained that they also separately hold parties and social gatherings at the house which can attract more people, but this has nothing to do with the worship services."

8. Were I to find the contents of the above paragraphs to reflect the situation as a matter of fact and degree, I would conclude it more likely than not that the activities of concern to the Council (the gatherings) were not of such a nature, scale and frequency so as to be anything other than ancillary to the use of the property as a dwellinghouse.
9. However, appeal decisions are necessarily based on the consideration and weighing of evidence. As stated earlier, on these legal grounds, the burden of proof is upon the appellant. While I accept that the appeal property (as experienced on my site visit and on the basis of the submitted photographs) does not appear as anything other than as a family dwellinghouse¹, the appellant has submitted very little substantive evidence of the nature, scale and frequency of the gatherings which take place within the house (and/or the garden). For instance, despite an assertion within the early appeal documents that "...we can provide evidence by way of witness statement from members and neighbours that these gatherings alternate between different private dwellinghouses"², no such evidence was submitted during the appeal process. I also note that it appears similar evidence was promised to the investigating Council officer, as recorded in his report:

"They offered to introduce me to "many neighbours on the street who can confirm what I have written, including my next door neighbours at no. 33 who are not Jewish and have nothing to do with my study group". I requested for this but so far not even one has been arranged."

While I give moderate weight to what was apparently said in the PCN response (given the offence of providing false or misleading information), the appellant's claims have not been supported by any other evidence that the gatherings are small, sporadic or rotate between different houses. While the residents at 33 Hillview Gardens (No 33) have provided a representation into the appeal, the letter simply opines that their neighbours are kind and not noisy.

¹ Notwithstanding that it is accepted that additional furniture is brought in when there are higher numbers of visitors (Response To Council Statement Of Case), as reportedly seen by neighbours being removed from the property the evening before the Council officer's visit (Officer Report). The appellant's explanation recorded in the Officer Report was that the furniture was being moved to another house for a subsequent meeting (said to support his case that various venues are rotated, though I have seen limited evidence of that).

² Paragraph 2 of document named "Appeal Enf Notice - 35 Hillview.pdf" uploaded with the appeal form.

10. Conversely, the Council has provided evidence of the gatherings by way of direct officer observations (made on 25/4/2024 and 10/6/2024) and by the submission of what appears to be schedules of meetings.
11. The observing Council officer attended between 6pm and 7.15pm on the first occasion, and witnessed 93 people enter the appeal premises in connection with 2 consecutive meetings. On the second occasion, he attended between 7pm and 8.39pm and witnessed 41 people enter the appeal premises (again, in connection with 2 consecutive meetings). I place significant weight on this precise and unambiguous evidence, demonstrating that large numbers of people do attend gatherings at the house.
12. The 'schedules' are each headed by a picture of the appeal property, there being no such representations of other properties. Each document, which resembles a flyer, has a table with many rows (and some have a smaller secondary table with other dates and times). While I cannot read most of the language within the tables as the words are not in English, I can see that the left hand column of each large table seems to be filled with a long list of times and the right hand column sometimes has days of the week written in English.
13. Looking at the submitted schedules overall, it appears that the programme of time appointments can begin early in the morning (for instance, 6.30am/6.52am/7am/7.15am) while others begin late in the evening (for instance, 10pm/10.30pm). There generally appears to be around 5 appointments (meetings/gatherings) per day though it can be slightly less or more depending on the day of the week.
14. The appellant says that the evidence of the 'schedules' is not directly linked to the property and therefore should be discredited. However, I disagree – there is a picture of the appeal property on the top of each one. The burden of proof is with the appellant, and he has not engaged with the evidence sufficiently to explain why there is a sole picture of the appeal property upon the documents or the significance of it.
15. I take the documents therefore at face value, using common sense, finding they provide significant evidential weight in demonstrating a very frequent and widespread programme of scheduled activities for which people enter, attend, and depart the appeal property.
16. Further, the evidence of the 'schedules' is corroborated by that of interested third parties living nearby:

"For the past few years the ground floor of the property is being used numerous times a day for prayer meetings and religious study groups. Activity at the property starts from before 7:00am and goes on to late in the evening every day of the week with increased attendance on the Sabbath – Friday evening and Saturdays and Jewish holidays and festivals."
17. For all of the above reasons, I find on the balance of probabilities and as a matter of fact and degree, that use of the property for religious meetings and teaching is of a scale and frequency as to be inconsistent with the appellant's argument that such activities are ancillary to its use as a dwelling. I am not satisfied that an unauthorised material change of use to a mixed use has not occurred. It's definable character has changed.
18. Accordingly, grounds (b) and (c) do not succeed.

Ground (d)

19. For success on this ground, the appellant must demonstrate on the balance of probabilities that enforcement action was not possible on the date the notice was issued.
20. Section 171B(3) of the Act provides that no enforcement action may be taken after the end of the period of 10 years beginning with the date of the breach.
21. The notice was issued on 17 December 2024. Therefore, for success, the burden of proof is upon the appellant to show that the breach of planning control began at least as long ago as 17 December 2014. However, no such case has been made.
22. For the above reasons, ground (d) does not succeed.

Ground (a) and the deemed planning application (DPA)

Main Issues

23. The main planning issues in the appeal are the effect of the development upon the character of the area and upon the living conditions of neighbours, particularly as regards noise.

Reasons

24. It seems to me that Hillview Gardens is a residential road typical of many in London, with dwellings on either side in a fairly dense arrangement. It is likely that comings and goings to those dwellings within this character context would largely be associated with the movements of their residents, guests and other visitors as might be expected from primary residential use.
25. The mixed use of the development on the other hand, based on the evidence I have considered on grounds (b) and (c), creates movements³ of significantly greater scale and frequency than is likely to be otherwise the case, spanning from fairly early in the morning to fairly late at night. Notwithstanding religious community facilities on other roads, including the London School of Jewish Studies on Albert Road and the proposed synagogue at 114 Finchley Lane, the significant increase in movements to and from the appeal property adversely harms the residential character of Hillview Gardens.
26. While the next-door residents at No 33 state that the use of the appeal property is not noisy, I have also received 2 representations from neighbours slightly further afield who refer to "*the huge amount of people and noise*" (resident at 29 Hillview Gardens) and "*increased noise, late night disturbance and disruption*" (residents at 30 Hillview Gardens). I acknowledge that there may not be any recorded service requests to the Council's Noise Team, but it is clear from the planning officer's report that residents had made their concerns known to him. While the third party representations received are mixed, I note that the majority express concern as to alleged noise arising from the mixed use. I give them strong weight, when combined with a common-sense view that such frequent and relatively large gatherings of people (meeting upon a modest site in a fairly tightly occupied residential street) are likely to cause adverse noise and disruption, notwithstanding the lack of amplification, particularly later in the evening when neighbours are more likely to be resting.

³ Of pedestrians, even if I accept the appellant's submissions that visitors to gatherings do not utilise vehicles.

27. For these reasons, I find that the appeal development causes very substantial harm to the character of the area and upon the living conditions of neighbours, particularly as regards noise. As such it is contrary to Policy CDH01 of the BLP and Policies D13 and D14 of the London Plan (2021) which together seek to ensure developments respond sensitively to distinctive local character and avoid significant adverse noise impacts on health and quality of life.

Other Matters and the Planning Balance

28. The appellant says that the meetings contribute positively to the local community by fostering social cohesion and support among members. I give those benefits substantial weight, on the basis that community facilities are supported by the Framework. However, they are substantially outweighed by the adverse effects of the development set out in the paragraph above.
29. I am conscious that this Decision will most obviously affect Jewish people practicing Judaism and, based on my understanding of paragraph 5.13 of the appellant's statement, largely (if not exclusively) males. I have had due regard to the Public Sector Equality Duty (PSED) set out under s149 of the Equality Act 2010, but the adverse impacts of the development substantially outweigh its benefits in terms of eliminating discrimination against persons with the protected characteristics, advancing equality of opportunity for those persons and fostering good relations between them and others. I conclude that it is proportionate and necessary to dismiss the ground (a) appeal (while also allowing the ground (f) and (g) appeals for reasons given in the forthcoming paragraphs below). It should be borne in mind within this context that the refused DPA and upheld notice do not prevent the appellant from using the property for a residential use with the ancillary religious activities as set out in paragraphs 6 and 7, for the reasons given in paragraph 8.
30. The development does not accord with the development plan as a whole, and there are no other considerations which outweigh that finding. The DPA is refused, there being no conditions which would make the development acceptable.

Ground (f)

31. For an appeal to succeed on this ground, I must be satisfied that the requirements of the notice are excessive in achieving its purpose.
32. It seems to me from the way the notice is drafted is that its purpose is to remedy the breach of planning control. The first requirement of the notice achieves that, by ending the unauthorised mixed use.
33. The second requirement is unnecessary and creates ambiguity as to the "tables, chairs and any other furniture or equipment" which might have been lawfully used for residential and ancillary religious activities within the home before the breach of planning control constituted by the mixed use. I am removing the requirement from the notice accordingly, and ground (f) succeed to this extent.

Ground (g)

34. For success on this ground, I must be satisfied that the 2 month compliance period of the notice falls short of reasonable.

35. The appellant requires at least 6 months to remove furniture and to relocate the religious meeting and teaching activities associated with the unauthorised mixed use. However, success on ground (f) means that no furniture need be removed and I have seen no evidence that relocation of the activities would require such a lengthy period.
36. Notwithstanding the above, and having due regard to the PSED and the benefits and harms created by the breach of planning control, I find that it would be proportionate (while dismissing the ground (a) appeal) to vary the compliance period of the notice to allow 3 months for the appropriate relocation of the unauthorised mixed use. That would be reasonable in all the circumstances.
37. Ground (g) succeeds to this extent.

Andrew Walker

INSPECTOR