Planning Inspectorate

# Appeal Decision

Site visit made on 3 November 2026

**by M Ollerenshaw BSc(Hons) MTPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 November 2026**

**Appeal Ref: APP/T5150/C/25/3366382**
**34 Sidmouth Road, London, NW2 5HJ**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Ms Jane Liu against an enforcement notice issued by the Council of the London Borough of Brent.
- The notice was issued on 17 April 2025.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a dwelling in the rear garden of the premises.
  The requirements of the notice are: STEP 1 Demolish the dwelling in the rear garden of the premises. STEP 2 Remove all waste, debris, items and materials, associated with the dwelling and arising from its demolition, from the premises.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (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.

## Decision

1. The appeal is dismissed, 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.

## Application for costs

2. An application for costs was made by the Council of the London Borough of Brent against Ms Jane Liu. This application is the subject of a separate Decision.

## Preliminary Matters

3. As part of their ground (a) appeal, the appellant advances an alternative scheme involving the retention of the alleged dwelling and its use for purposes incidental to the enjoyment of the original dwellinghouse at 34 Sidmouth Road. Specifically, the appellant proposes to use the building as a gym with storage, whilst retaining the bathroom facilities and removing the bedrooms and kitchen facilities.

4. Such a use would be of a materially different character to the use alleged in the notice. The terms of the deemed planning application arising from an appeal made on ground (a) are derived from the matters stated in the notice as constituting a breach of planning control. The power in section 177(1)(a) of the Town and Country Planning Act 1990 (as amended) (the 1990 Act) to grant planning permission does not extend beyond all or part of those matters. Since the notice does not allege the erection of a building used for purposes incidental to the enjoyment of the dwelling, the appellant's alternative proposal is not part of the specified breach and falls outside the scope of the matters which can be considered in the ground (a) appeal.

5. On 17 August 2026, the National Planning Policy Framework (the Framework) was published. The parties were given the opportunity to comment on the relevance of this to the appeal. I have had regard to the new Framework in my decision.

## Background

6. The Council issued an earlier enforcement notice in January 2014[1] targeting a residential building in broadly the same location within the rear garden. An appeal against that notice was dismissed and the notice upheld[2]. The Council also contends that the development which is the subject of the current appeal constitutes a breach of that earlier notice. However, the appeal before me relates to the enforcement notice set out in the banner heading above.

7. The Council issued a lawful development certificate (LDC) in April 2023 (ref. 23/0604) for a single storey rear outbuilding in broadly the same location as the unauthorised building. However, the building that was subsequently constructed was not carried out in accordance with the details approved under the LDC and it has been used as a self-contained dwelling rather than for purposes incidental to the enjoyment of the main dwellinghouse. It is that building which is the subject of the enforcement notice.

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

8. The appeal on ground (a) is that planning permission ought to be granted for what is alleged in the notice, which in this case is the erection of a dwelling in the rear garden of the premises.

9. The **main issues** are:

- the effect of the development on the character and appearance of the area;
- whether the development provides an acceptable standard of accommodation for occupiers, with particular regard to internal space, external amenity space, and the provision of refuse and cycle storage;
- the effect of the development on the living conditions of neighbouring occupiers, with particular regard to privacy and outlook; and
- whether the development provides adequate standards of fire safety.

*Character and appearance*

10. The appeal site comprises a two storey semi-detached dwelling located on the northern side of Sidmouth Road within a predominantly residential area. The property is set back from the road with a driveway to the front and a large private garden to the rear. The prevailing character of development in the surrounding area is that of two storey dwellings that face the road and generally situated on spacious plots. Houses with a street scene presence are therefore characteristic and the sense of spaciousness also contributes positively to the character of the area.

11. The notice relates to a single storey detached dwelling erected within the rear garden of No 34, a sizeable distance from the main dwelling. The building is sited adjacent to the site boundaries at the end of the garden and extends across the full

[1] Council Ref. E/13/0172
[2] Appeal Ref. APP/T5150/C/14/2214660

width of the plot. It has a flat roof with roof lights and, according to the Council, a height of 2.9m measured from the adjacent concrete slab, though its overall height is likely greater given that ground levels have been raised in this part of the site.

12. The siting of the new dwelling in the rear garden is uncharacteristic of development in the surrounding area, as it lacks any street scene presence. Although the rear garden is large, the development is a substantial structure, particularly in terms of its footprint, and is positioned immediately adjacent to the side and rear boundaries. As a result, it has a cramped and overbearing appearance which is out of keeping with the spacious and open character of rear gardens in the surrounding area. Moreover, the combination of the dark clad exterior and partly unfinished walls is incongruous and exacerbates the harm arising from the building's siting and scale. Whilst the building may be subordinate in scale to the main dwelling and is not visible within the street scene, these factors do not outweigh the harm identified. For these reasons, the development fails to integrate with the established pattern of development and is harmful to the residential garden setting.

13. Although there are outbuildings sited within the rear gardens of some properties in the area, the examples referred to by the appellant, including that approved at 142 Hanover Road[3], appear to be buildings used for incidental purposes rather than self-contained dwellings. Moreover, they are generally of a smaller scale and their design and surrounding context differ from those of the appeal scheme. As such, they do not provide compelling justification for the development before me.

14. I have considered whether conditions could be imposed to address the harm identified above. The appellant has suggested conditions requiring the installation of a green roof and improvements to the flank walls to soften the appearance of the building. However, these measures would not address the harm arising from its inappropriate siting and scale. I am not aware of any other conditions that could sufficiently mitigate the negative impacts identified.

15. For the above reasons, I conclude that the development is harmful to the character and appearance of the area. It therefore conflicts with Policy DMP1 of the Brent Local Plan 2019-2041 (2022) (the Local Plan) and the Supplementary Planning Document (SPD) Residential Extensions and Alterations (2025). Amongst other things, these seek to ensure the use, siting, layout, scale, materials, detailing and design of development complement the locality. It is also contrary to Policy DP3 of the Framework which states that development proposals should respond to their context (the history, character and features of their site and its setting), so that they integrate with and enhance their surroundings; such as through the arrangement of development plots and buildings.

*Standard of accommodation*

16. The development contains the facilities required for day-to-day living, including a living area and kitchen, two bedrooms and a bathroom, notwithstanding that it was not occupied at the time of my site visit.

17. The open plan living area/kitchen and the bathroom are of adequate size. The main living area benefits from a front window which provides natural light and an outlook, and the front bedroom is similarly served by a large window. However, the rear bedroom contains only a roof light and lacks a window. Consequently, whilst it

[3] Council Ref. 16/3566

benefits from natural light, it provides very little outlook. Both bedrooms have limited floor space a large proportion of which is taken up by beds. As a result, the accommodation feels cramped and provides poor living conditions for its occupiers.

18. The development does not provide any private external amenity space as the rear garden is effectively a shared space with the original dwelling and does not afford an acceptable degree of privacy for the occupiers of either the new dwelling or the original one. The lack of private external amenity space is therefore a further indication of inadequate living conditions.

19. There is sufficient space within the site to provide cycle parking and refuse storage facilities for the development. Had I been minded to allow the appeal, details of such provision could have been secured by condition to ensure compliance with Policies D6 and T5 of the London Plan 2021, where these require development to provide adequate waste storage facilities and cycle parking respectively.

20. Taking all of the above matters together, I conclude that the development fails to provide satisfactory living conditions for occupiers. Thus, it conflicts with Policies DMP1, BH12 and BH13 of the Local Plan and Policy D6 of the London Plan (2021), which, amongst other things, require housing development to be of high quality design and to provide a high level of internal and external amenity.

*Living conditions of neighbouring occupiers*

21. The appeal building is positioned immediately adjacent to the side and rear garden boundaries. According to the Council, it is around 2.9m in height and consequently projects well above the height of the adjacent boundary fences.

22. Although the building is within view of the main dwelling and a number of neighbouring dwellings on Sidmouth Road, it is a sufficient distance away from those to avoid significant loss of privacy. However, the windows in the front elevation overlook the rear garden of the main dwelling, resulting in a loss of privacy to the occupiers' private amenity space.

23. Due to its siting adjacent to the boundaries and the extent to which it projects above the garden fences, the building has a harmful effect on the outlook of the neighbours, particularly when viewed from their gardens. Its position at the end of the long rear garden affects a large part of the outlook from neighbouring gardens. Whilst the vegetation beyond the western site boundary provides some screening when viewed from 36 Sidmouth Road, it is largely ineffective in the autumn and winter months when the foliage is diminished.

24. For these reasons, I conclude that the development results in unacceptable harm to the living conditions of neighbouring occupiers. It therefore conflicts with Policy DMP1 of the Local Plan, which seeks, amongst other things, to ensure that development provides a high level of external amenity.

*Fire safety*

25. Policy D12 of The London Plan states that all development proposals must achieve the highest standards of fire safety to ensure the safety of all building users. No substantive evidence has been provided to demonstrate that the development achieves the highest standards of fire safety. I cannot be sure that these matters have been fully considered in the design and layout of the development. It is therefore contrary to Policy D12 of the London Plan.

*Other matters*

26. The appellant refers to the potential fallback position represented by the LDC which he contends would result in the construction of a similar building to the unauthorised development. However, no detailed plans of the unauthorised building have been provided to demonstrate this and there is no evidence before me to suggest that it would be permitted development by virtue of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). The evidence indicates that it is a larger structure than the LDC building in terms of height and footprint. These differences cause harm to the character of the area and the living conditions of the occupiers and neighbours. Accordingly, the suggested fallback would be materially different and would cause less harm than the appeal scheme. I therefore attach only limited weight to it.

*Conclusion on ground (a) appeal*

27. The development causes unacceptable harm to the character and appearance of the surrounding area, it fails to provide satisfactory living conditions for occupiers, and there is harm to the living conditions of neighbouring occupiers. The proposal conflicts with several policies of the Local Plan and the London Plan and I find conflict with the development plan taken as a whole.

28. Policy S3 of the Framework states that planning decisions should apply a presumption in favour of sustainable development. Policy S4(1) sets out that development proposals within settlements should be approved unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in the Framework. However, Policy S4(2) recognises that the circumstances in which the benefits of approving development are likely to be substantially outweighed by adverse effects include situations where the proposal would "fail to comply with a national decision-making policy which states that development should be refused in specified circumstances." Policy DP3(3) states that development proposals should be refused where, without clear justification, they conflict with the requirements of DP3(1). Given the harm that I have identified to the character and appearance of the area, there is a conflict with Policy DP3(1).

29. Policy L2 of the Framework says that creating additional homes or development within existing plots including additional units within residential curtilages should be given substantial weight. However, such proposals should be consistent with the overall street scene and maintain acceptable living standards for residents and neighbours. The appeal development does not achieve this.

30. Policy HO7 of the Framework establishes that substantial weight should be given to the benefits of providing homes which will contribute towards meeting the evidenced accommodation needs of the community, as identified through needs assessments. Whilst I attach substantial weight to the provision of an additional dwelling which makes a contribution, albeit on a limited scale, towards meeting the accommodation needs of the community, this benefit is substantially outweighed by the adverse effects identified. The proposal does not therefore benefit from the presumption in favour of sustainable development.

31. Accordingly, the appeal on ground (a) does not succeed and the deemed planning application will be refused.

## The appeal on ground (f)

32. An appeal on ground (f) is that the steps required by the notice exceed what is necessary to remedy any breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.

33. When an appeal is made on ground (f), it is necessary to understand the purpose of the notice. Section 173(4) of the 1990 Act sets out the purposes which an enforcement notice may seek to achieve, either wholly or in part. These purposes are either (a) the remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or (b) remedying any injury to amenity which has been caused by the breach.

34. As the notice requires the demolition of the dwelling and the removal of all waste materials arising from its demolition, the purpose of the notice must be to remedy the breach of planning control, as confirmed in Schedule 4 of the notice. However, the enforcement procedure is intended to be remedial rather than punitive. Consequently, I have considered whether there is an obvious alternative which would overcome the planning difficulties at less cost and disruption.

35. The fallback position raised has been considered in the ground (a) appeal above. The appellant considers demolition excessive given that a similar building was granted by the LDC and that the notice should give the appellant the option to alter the building in accordance with that approval as an obvious alternative to demolition. However, as the entire building is unauthorised, varying the requirements in this way would result in part of the building remaining in place which would not remedy the breach and restore the land to its condition before the breach took place. Furthermore, there is no substantive evidence before me to indicate that a structure of similar floor area would be required at the property for an incidental purpose. There are no other obvious alternatives or lesser steps to achieve the purpose of the notice.

36. I conclude that the requirements do not exceed what is reasonably necessary to remedy the breach of planning control. The appeal on ground (f) therefore fails.

## Conclusion

37. For the above reasons, I conclude that the appeal should be dismissed. I will 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.

*M Ollerenshaw*

INSPECTOR