

LONDON BOROUGH OF BARNET

**TOWN AND COUNTRY PLANNING ACT 1990
(as amended)**

A Section 174 Appeal

**Site Address:
50 Galsworthy Road, London, NW2 2SH**

Appeal by Written Representation

**INSPECTORATE REFERENCES:
APP/N5090/C/22/3291200**

**LPA'S REF:
ENF/0718/2**

This appeal is made under Grounds (a) (f) and (g)

1. Enforcement Notice

On the 16 December 2021 the Council issued an enforcement notice under Section 171A(1)(a) of The Town and Country Act 1990 (Amended) against "Without planning permission, the erection of a part single, part two storey rear extension including a ground floor wooden and plastic canopy extension".

The reasons for the notice are:

It appears to the Council that the above breach of planning control has occurred within the last four years.

1.1. The development by reason of its size, siting, bulk and design constitutes a disproportionate, discordant and incongruous addition to the property, to the detriment of the character and appearance of the terraced properties and the general locality, contrary to policy DM01 of the Development Management Policies DPD, policy CS5 of the Barnet Core Strategy and the Supplementary Planning Document: Residential Design Guide (2016).

1.2. The scale and rearwards projection of the extension creates an overbearing structure that causes a loss of adequate daylight, sunlight and outlook for current and future occupiers of the adjoining properties contrary to policy DM01 (Protecting Barnet's character and amenity) of the Adopted Development Management Policies DPD (2012). The extension also creates an overbearing impact for the whole development and hence disregards advice contained within the Adopted Residential Design Guidance SPD (2013).

The requirements of the notice Ref ENF/0718/21 are to:

1. Demolish the part single, part two storey rear extension and canopy extension, and restore the land to its condition prior to the breach of planning, in line with the following existing plans of permission reference 18/2006/PNH dated 01.05.2018: "Existing rear elevation" from drawing number 2018-Galsworthy-P-R-01 Rev A3, "Existing right elevation" and "Existing left elevation" from drawing number 2018-Galsworthy-P-R-02, and "Existing G/F", "Existing F/F" and "Existing Loft" from drawing number 2018-Galsworthy-P-R-03.
2. Permanently remove all constituent materials resulting from the works in 1. above from the property

The compliance period was six months. The notice would have taken effect on 27 January 2022 unless an appeal was made against it beforehand

The appeal is proceeding under Grounds A F and G.

2. The Appeal Site and Location

2.1. The property is located at 50 Galsworthy Road, consisting of a two- storey terraced house with front and rear garden. The street has mainly other similar terraced houses, with the area being primarily residential. The property is located within the Childs Hill ward. The site is not within a conservation area, nor is it a listed building.

3. Planning History

Development Management

Reference: 18/1920/192

Address: 50 Galsworthy Road, London, NW2 2SH

Decision: Lawful

Decision Date: 2 May 2018

Description: Roof extension including rear dormer window with juliette balcony and no rooflights to front roofslope.

Reference: 18/2006/PNH

Address: 50 Galsworthy Road, London, NW2 2SH

Decision: Prior Approval Not Required

Decision Date: 1 May 2018

Description: Single storey rear extension with a proposed depth of 6 metres from original rear wall, eaves height of 2.7 metres and maximum height of 3 metres.

Reference: 18/2947/192

Address: 50 Galsworthy Road, London, NW2 2SH

Decision: Lawful

Decision Date: 7 June 2018

Description: Single storey rear extension following the demolition of an existing rear extension

4. Ground (a) Appeal

(a) That, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged

4.1 There are two key questions which must be addressed in regard to whether planning permission should be given for this development.

- a. Whether harm would be caused to the character and appearance of the existing building and the wider locality?
- b. Whether harm would be caused to the living conditions of neighbouring residents?

4.2 The Council's approach to extensions is set out in Barnet Local Plan, Policy

DM01. The Council's approach is to minimise an extensions impact on the local environment and to ensure that occupiers of new developments as well as neighbouring occupiers enjoy a high standard of amenities. Policy DM01 states that all development should represent high quality design and should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers.

- 4.3 The Residential Design Guidance - Supplementary Planning Document (SPD) sets out information for applicants to help them design an extension to their property. The SPD states that large areas of Barnet are characterised by relatively low-density suburban housing with an attractive mixture of terrace, semi-detached and detached houses. The Council is committed to protecting, and where possible enhancing the character of the borough's residential areas and retaining an attractive street scene.
- 4.4 It also states that extensions should normally be subordinate to the original house, respect the original building and should not be overly dominant. Extensions should normally be consistent in regard to the form, scale and architectural style of the original building, and this can be achieved through respecting the proportions of the existing house and using an appropriate roof form. Any extensions should also not look too bulky and prominent compared to the size of the main building and garden to which they relate.
- 4.5 The Council accepts that the individual planning permissions - Ref 18/2006/PNH '*Single storey rear extension with a proposed depth of 6 metres from original rear wall, eaves height of 2.7 metres and maximum height of 3 metres*' and Ref.18/3899/HSE '*Part two storey rear extension following the demolition of existing single storey rear extension.*' on their own are considered acceptable. However, the Council's position is that now that the appellant has implemented both permissions simultaneously, the cumulative impact of a 6m wide and 6m deep rear extension, combined with a 3m deep second storey rear extension negatively impacts neighbouring properties.
- 4.6 The original house depth as detailed by the appellant in their appeal statement was 9.1m of which 2.42 was an extension. Therefore, the original house would have been 6.68m in depth. The appellant has added a 6m ground floor rear extension. They have also added an additional 3m canopy to the ground floor rear extension. This has resulted in an extension that is 9m in depth and is considerably longer in depth than the 6.68m of the ground floor of the main house. They have also added a second- floor rear extension of 3m depth. The requirement in the SPD that extensions should be subordinate to the main house has clearly not been met, given the size of the current rear extension.
- 4.7 The appellant has stated that they would be prepared to remove the 3m length canopy if required to do so. The Council contends that this reduction would still not be sufficient in order for the rear extension to meet the normally acceptable depth of 3.5m, as the rear extension would still be 6m.
- 4.8 The council also argues that the combining of the two permissions has created a rear extension which is bulky and dominant and leaves the neighbours and

future occupiers of 50 Galsworthy with a sense of enclosure when using their rear gardens. The neighbours at 52 and 48 Galsworthy Road have modest single-story extensions, as do most of the properties along the road. (See Figure 1) This has in turn meant that the size and bulk of the rear extension at 50 Galsworthy stands out, and is very prominent with an extremely large ground floor extension and an unsympathetic first floor addition. Combined, these two elements of the rear extension, do not protect the existing character due to its more prominent size than the neighbours.

4.9 The Appellant highlights that the 6m rear extension does intercept the 45 degree line at number 48. However, they have failed to highlight the cumulative impact of this with the additional 3m canopy attached to the 6m extension, which in turn impacts both 48 and 52.

4.10 As the 6m ground floor extension was requested under Prior Approval, the Council was unable to attach comments to this development. However, if it had been assessed as a household application then the 6m depth would not have been given, as it impacts on the outlook of number 48.



Figure 1

4.11 The rear extension fails to meet the requirement of DMO1 which states that developments should “preserve or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets.”.

5. Ground (f) Appeal

F) The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.

5.1. The Appellant argues that it is an excessive step for the Council to require the owners of the property to '*Demolish the part single, part two storey rear extensions and canopy extension and restore the land to its condition prior to the breach of planning*'. The purpose of the notice is to remedy the breach and to bring the property back to a 'lawful' state.

5.2. The Appellant has put forward the suggestion that the notice be varied to require the owners of the property to implement planning permission 18/2006/PNH. However, the planning permission along with the prior approval for the rear extension is now void and the Appellant is in effect asking for planning permission to be granted for a second scheme if planning permission is not given under ground (a).

5.3. The council respectfully requests the inspector to dismiss this appeal on ground (f).

6. Ground (g) Appeal

G) The time given to comply with the notice is too short

6.1. The Council would also draw attention to the fact that the initiation of prosecution proceedings under Section 179 of the Town & Country Planning Act 1990 is at the discretion of Local Planning Authority. They may choose not to exercise that right after the expiry of any period for compliance, if the Appellant could present satisfactory evidence in respect of Section 179(3) and would submit to an agreed timetable for the remainder of the works.

6.2. However, the Council are happy to defer to the discretion of the Inspector to amend the terms of Section 6 of the Notice as they see fit.

7. Planning Conditions

7.1. If the Planning Inspector decides to grant planning permission for the development, the Council would like to suggest the following conditions.

7.2. Notwithstanding the provisions of any development order made under Section 59 of the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order) no windows, shall be placed at any time in the flank elevations, of the extensions hereby approved, facing 48 or 52 Galsworthy Road..

7.3. Reason: To safeguard the privacy and amenities of occupiers of adjoining residential properties in accordance with policy DM01 of the Adopted Barnet

Development Management Policies DPD (2012).

7.4. The roof of the extension hereby permitted shall only be used in connection with the repair and maintenance of the building and shall at no time be converted to or used as a balcony, roof garden or similar amenity or sitting out area.

7.5. Reason: To ensure that the amenities of the occupiers of adjoining properties are not prejudiced by overlooking in accordance with policy DM01 of the Development Management Policies DPD (adopted September 2012).

8. vv