



PLANNING ENFORCEMENT

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

STATEMENT OF CASE

APPEAL SITE

190A Fordwych Road, London, NW2 3NX

LPA CASE OFFICER

Mr Joshua Cheung (Enforcement)

APPELLANT

Mr Abdul Ghani Allaf

SUBJECT OF APPEAL

Appeal against the Enforcement Notice dated 15th October 2024

LPA REFERENCE

EN22/0523

PINS REFERENCE

APP/X5210/C/24/3356264

DATE

19th March 2025

1. Summary

1.1 The site is a 2-storey semi-detached dwelling located at the northern end of Fordwych Road. The site is not listed and does not lie within a Conservation Area. Adjoining its rear elevation is a single storey extension with a mono-pitch roof and a polycarbonate/timber lean-to structure.

1.2 An unauthorised single storey outbuilding has been constructed in the rear garden adjacent to the boundary of No 188 without the benefit of consent. A porch has also been installed without consent that infills the space between the existing rear extension and said unauthorised outbuilding. Following the refusal of the 2022/3386/P application, which proposed the retention of these unauthorised works, the Council served an Enforcement Notice on the 15th October 2024, alleging:

Without planning permission: Erection of a rear outbuilding, including the connecting rear porch, located adjacent to the side boundary of 188 Fordwych Road.

1.3 And requiring that:

*Within a period of **FIVE (5) months** of the Notice taking effect:*

- 1. Completely remove the rear outbuilding, including the connecting rear porch, located adjacent to the side boundary of 188 Fordwych Road; and*
- 2. Remove any constituent materials and make good any damages as a result of the above operation.*

1.4 The reasons for serving the notice:

- a) The development has occurred within the last 4 years; and*
- b) The rear outbuilding, by virtue of its height, depth and location adjacent to neighbouring habitable windows, is an overbearing structure creating a harmful sense of enclosure and loss of daylight/sunlight, detrimental to the amenity of neighbouring occupiers, contrary to policy A1 (Managing the impact of development) of the Camden Local Plan 2017.*

2. Relevant planning history of the site

2.1 None, other than the aforementioned refused application: 2022/3386/P: Erection of a single storey rear outbuilding. Retrospective. **Refused with warning of enforcement action on the 19th September 2024.**

2.2 In connection with paragraph 5.1 of the Officer's Report (sent with the questionnaire), the applicant (appellant) submitted a letter that claims the unauthorised structure was built in March 2020. A copy of this letter has been sent alongside this appeal statement as Appendix 1 and is further explored in the Council's response below (Section 5).

3. Status of policies and guidance framework

3.1 In arriving at its current position, Camden Council has had regard to the relevant legislation, government guidance, statutory development plans and the particular circumstances of the case. The development subject to this appeal was considered in the light of the following policies:-

National Planning Policy Framework 2023

The London Plan 2021

3.2 The full text of each of the below policies and guidance has been sent with the questionnaire documents.

Camden Local Plan 2017

A1 Managing the impact of development

Camden Planning Guidance 2021

CPG Amenity

CPG Design

CPG Housing

3.3 It is noted that the Council has begun the process of updating the Local Plan. Having looked at the relevant emerging policies, I am of the opinion that there is no material difference that would alter the Council's decision and within this appeal.

3.4 It is also noted that there have been recent changes to the NPPF. Having looked at the relevant adopted policies, I am of the opinion that there is no material difference that would alter the Council's decision and within this appeal.

4. Grounds of appeal

4.1 The appellant has appealed against the Enforcement Notice under Ground D. They have produced an appeal statement (labelled '**Planning Appeal statement,final**') that sets out their case. No further statements/documents have been cross copied to the Council for this valid appeal.

4.2 As stated, the Enforcement Notice was served on the 15th October 2024. It is the onus of the appellant to discharge the burden of proof. Accordingly, in order for this Ground D appeal to succeed the appellant must sufficiently demonstrate on the balance of all probabilities that the alleged development benefitted from immunity prior to the service of the notice, against the Council's evidence, by way of demonstrating that the works were substantially completed by the **15th October 2020**.

4.3 Therefore, I will seek to break down the appellant's submitted arguments/evidence and discuss it against the Council's evidence.

5. Ground D ("that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters"):

5.1 First and foremost, the arguments labelled 'c', 'd' and 'e' of the appellant's statement appear to be Ground A arguments. PINS turned away a separate but linked Ground A appeal (ref: 3356165) under Section 174 (2A) (2AA) of the Act. Notwithstanding, arguments 'c', 'd' and 'e' are not relevant to this Ground D appeal. In any case, Pages 4 - 5 of the Officer's Report outlines the Council's assessment of the harm being caused by the unauthorised single storey outbuilding and is considered to rebut these arguments.

5.2 The argument labelled 'a' reads: "*a- Enforcement notice issued nearly 2 years after validation date of 26/10/2022*"

5.3 Whilst the delays to determine the application is regrettable, this does not show how the outbuilding became immune from action before the notice was served, particularly without any sufficient accompanying evidence.

5.4 The argument labelled 'b' reads: "*b- Outbuilding has been standing for over 4 years.*"

5.5 **No** evidence has been provided to substantiate this claim. As such, this statement cannot be afforded any material weight.

5.6 In reference to paragraph 2.1 above, the Council would mention that during the determination of the 2022/3386/P application the appellant submitted a letter (Appendix 1) by AK Carpenters, which notably states: *“My name is Aiham Kashout, and along with several friends of Mr. Abdul Ghani Allaf, we combined our efforts to assist Mr. Allaf in constructing a single-story, standalone timber room in the rear garden of the above address in March 2020.”*

5.7 To date, there is no supporting evidence to substantiate the reliability of this letter, nor its assertions. “March 2020” is not a precise date either. As such, the Council contends this letter continues to hold little to no material weight.

5.8 Further, given the written expression in this letter is that the outbuilding was being constructed **in** March 2020, the appellant would need to demonstrate that the outbuilding was substantially completed on a date between March 2020 and **15th October 2020**. No evidence has been provided in this respect either.

Imagery

5.9 On the other hand, historic imagery (Figures 1 and 2 below) shows the outbuilding was not in-situ by 14th October 2020, but in-situ by 10th August 2022.

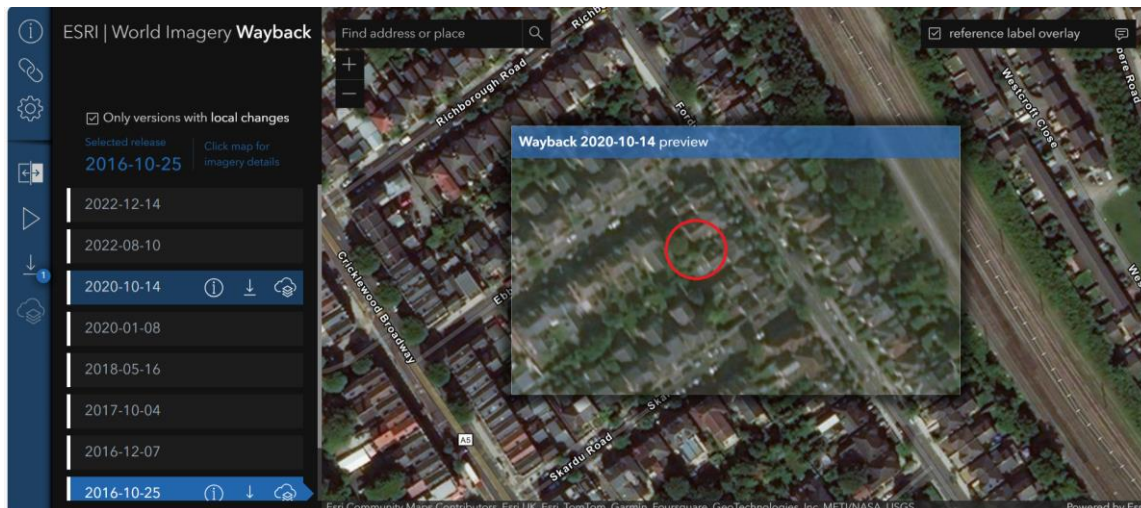


Figure 2 – ESRI Wayback Imagery of the rear garden of 190 Fordwych Road dated 14th October 2020 (circled in red is where the existing unauthorised outbuilding **‘will be’** situated)

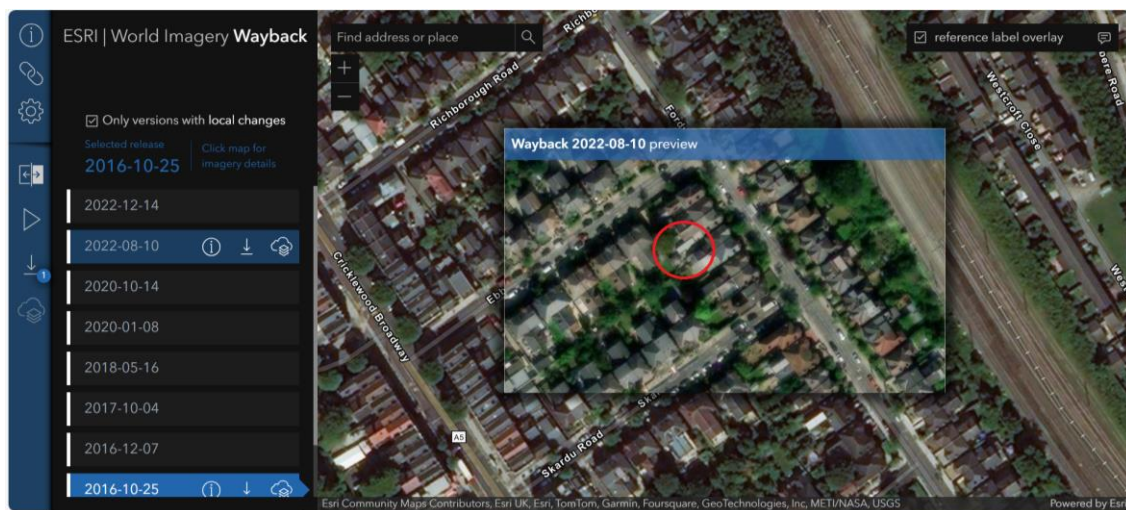


Figure 3 – ESRI Wayback Imagery of the rear garden of 190 Fordwych Road dated 10th August 2022 (circled in red is where the existing unauthorised outbuilding **is** situated)

5.10 Figures 1 and 2 have also been sent separately as PNG files (Appendix 2 and 3, respectively) if the Inspector would like to 'flick' between each image.

5.11 If the outbuilding was being built since March 2020, in the 14th October 2020 imagery (Figure 1) we would expect to see evidence of such construction (i.e. the timber skeleton or concrete foundations).

Timeline

5.12 The initial complaint to enforcement was made on 27th June 2022 via email, stating "...who has built a 2 bedroom extension that runs almost the length of his small garden". A redacted copy of this email is sent alongside this statement as Appendix 4.

5.13 On the 28th June 2022, another complainant sent an email notably saying "...Approximately 1 year ago I noticed they started having a lot of building materials carried through to their garden and didn't think much of it... within a few days my suspicions was rite and they had 2/3 men come in and they started to put up a structure...". A redacted copy of this email is sent alongside this statement as Appendix 5.

5.14 Subsequently, the Council received a retrospective application (2022/3386/P) 13 days later on the 9th August 2022.

5.13 On the 7th December 2022, an objection was made to the retention of the outbuilding under the 2022/3386/P application, particularly stating: "...[appellant] states the extension has been up for the past 4 years this is not true as it went up just over a year ago [early Nov 2021]...". A copy of this objection is sent with this statement as Appendix 6.

5.14 In light of all the above, the Council has and still considers, on the balance of all probabilities, the outbuilding was not substantially completed by the 15th October 2020, but between the dates of (*with a very generous 6-month leeway, in connection with the 5.13 objection above):

1st May 2021* to 10th August 2022

5.15 Meaning the earliest potential date the outbuilding would have become immune would be around 1st May 2025 (more likely early November 2025, in line with the 5.13 objection), thus the works did not become immune from enforcement action by the date the notice was served (15th October 2024). This Ground D appeal should therefore fail.

6. Conclusion

6.1 It is the onus of the appellant to discharge the burden of proof. In particular, the appellant has not provided any verified nor sufficient evidence to demonstrate the outbuilding was immune from enforcement action before the notice was served, against the Council's evidence. As such, the appellant has not discharged the burden of proof for their Ground D appeal to succeed.

6.2 The Council kindly invites the inspector to dismiss this appeal and uphold the enforcement notice.

If any further information or clarification on any matter associated with this case is required, please do not hesitate to contact Joshua Cheung on the above email or direct dial number.

Yours sincerely,

Joshua Cheung
Planning Enforcement Officer
Supporting Communities Directorate