

Conclusions on Appeal A

61. For the reasons stated I conclude that Appeal A should be dismissed.

Appeal B

Main issue

62. The main issue with this appeal is whether the steps required to comply with the notice are excessive.

Reasons

63. Section 173(4) of the Act as amended says the steps required by an enforcement notice are to achieve one of 2 purposes. These are either to remedy the breach of planning control that has occurred, or to remedy any injury to amenity that has been caused by the breach. An appeal under ground (f) is contending that the required steps exceed what is necessary to remedy the breach of planning control or the injury to amenity, whichever the case may be.
64. In this case the steps required by the notice seek to remove the unauthorised extension and basement, and the Council said its purpose was to remedy the breach of planning control and also to remedy the injury to amenity. Any lesser steps than those stated would not address the unauthorised operational development, and so would not remedy the breach of planning control. Therefore the steps required do not exceed what is necessary.
65. The Appellant's case was that the notice should require the works to be modified to accord with the 2008 scheme, and this was based on the understanding that the 2008 scheme had been implemented and could now be built. However, as stated above that is not a view I share.
66. However, mindful of *Mahfooz Ahmed v SSCLG and the London Borough of Hackney* [2013] EWHC 2084 (Admin) there is an argument that the steps may be modified to accord with the 2008 scheme even though I have come to the view that that permission has expired. There are 2 reasons though why I consider such a course of action would not be appropriate.
67. Firstly, I have found that the 2008 scheme is less harmful than Appeal A scheme, and as the 'as built' scheme is taller again, I also acknowledge that the 2008 scheme would be less harmful than what is now on site. However, putting aside any relative assessment, I consider the 2008 scheme in its own right would have a poor relationship to the original building because of its scale, its materials and its 'L' shape. I note too that the Appellant accepted that if the Council had properly appreciated its size when that application was determined it would not have been permitted. I therefore align with the views of Mr Lane on this matter and consider it would be out of character with the buildings and its surroundings. It would be a dominant and discordant element that would harm the character and appearance of the conservation area. As such, I conclude that reverting to the 2008 scheme would not achieve the Council's stated purpose of remedying injury to amenity.
68. Secondly, a number of inconsistencies were highlighted in relation to the plans accompanying the 2008 scheme. Some of these were relatively minor and