



Appeal Decisions

Site visit made on 21 May 2025

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

an Inspector appointed by the Secretary of State

Decision date: 12 June 2025

Appeal A: Ref APP/B5480/C/23/3331004

159 Hillview Avenue, Hornchurch RM 11 2DL

- 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 Robert Hunter against an enforcement notice issued by the Council of the London Borough of Havering on 15 September 2023.
- The breach of planning control as alleged in the notice is without planning permission, the construction of a rear outbuilding.
- The requirements of the notice are: 1. Demolish the outbuilding within the rear garden; AND 2. Remove all debris, rubbish or other materials accumulated as a result of taking step 1 above.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) (f) of the Town and Country Planning Act 1990 as amended. 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.

Appeal B: Ref APP/B5480/W/23/3331308

159 Hillview Avenue, Hornchurch RM 11 2DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Robert Hunter against the decision of the Council of the London Borough of Havering.
- The application Ref P0290.23, dated 19 February 2023, was refused by notice dated 19 April 2023.
- The development proposed is demolition of existing residential single storey pitched roof out building viz former games room and erection of new building to provide new flat roofed gym and garden tool storage on same footprint as previous building.

Decisions

1. Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a rear outbuilding on land at 159 Hillview Avenue, Hornchurch RM 11 2DL referred to in the notice, subject to the single condition attached to these Decisions.
2. Appeal B is allowed and planning permission is granted for demolition of existing residential single storey pitched roof out building viz former games room and erection of new building to provide new flat roofed gym and garden tool storage on same footprint as previous building at 159 Hillview Avenue, Hornchurch RM 11 2DL in accordance with the terms of the application, Ref P0290.23 dated 19 February 2023, and the plans submitted with it, subject to the single condition attached to these Decisions.

Procedural Matters

3. The rear outbuilding which is the target of the notice in Appeal A is the same outbuilding for which the Council had earlier refused a retrospective planning application, and which is the subject of Appeal B.
4. However, I noted on my site visit that the outbuilding's flank windows were not fixed-shut as described in the design and access statement submitted under application P0290.23. Accordingly, a slight difference between the appeal schemes is that Appeal A concerns a design ('as built') with openable flank windows and Appeal B does not.

Appeal A ground (a) and the deemed planning application

Appeal B

Main Issues

5. The main issues in both appeals are the effect of the development upon:
 - the character and appearance of the host dwelling and surrounding area; and
 - the living conditions of neighbouring occupiers, particularly as regards overlooking and loss of privacy.

Reasons

Character and appearance

6. Due to the appeal property's position on a bend of the highway, the bungalow sits forward of neighbouring properties on Hillview Avenue. As the rear gardens of the properties share a broadly common rear boundary line where they abut a footpath running next to the railway line, the result of the appeal property's forward position is that its rear garden is relatively long. The new outbuilding is located at the end of the rear garden next to the footpath and railway track.
7. The former outbuilding was significantly higher at its ridge than the appeal development, which has been constructed in the same location and with materially the same footprint as the former structure. While the eaves height is greater than was previously the case, there is reduced visibility of the single-story outbuilding because of the high boundary treatments that significantly enclose it on three sides together with the effects of vegetative screening from mature trees and bushes within the appeal site and upon adjacent land. Further, the light choice design featuring grey shiplap boards effectively serves to mitigate against a perception of excessive bulk. These factors, together with the significant intervening distance, also prevent the outbuilding appearing overbearing or out of scale and character with the host dwelling.

Living conditions of neighbours

8. The appellant's annotated photographs demonstrate well, as confirmed on my site visit, that there is a very low risk of overlooking to neighbouring properties. Indeed, since the photographs were taken and in consultation with the neighbour, that risk has reduced even further by the addition of a trellis atop the boundary fence with 114 Cranham Road.

9. In essence, due the effects of distance and screening, there is very limited intervisibility between neighbouring dwellings¹ and the outbuilding. That includes from the large area of glazing on the north elevation facing up the garden towards the host dwelling. Further, the significant height of the small high-level windows on the flank elevations (together with the obscure glazing installed) effectively prevents the possibility of any significant degree of overlooking from persons using the outbuilding. That is the case whether the windows are opened at that high level (some 2m or so from the ground) or whether they are fixed shut. Accordingly, either design in Appeal A or B is acceptable. Users of the flank door would effectively be prevented from any significant degree of overlooking onto 114 Cranham Road (notwithstanding the significant distance from the dwelling itself) by the high boundary fence with added top trellis.
10. I agree with the Council that, by virtue of its positioning at the rear of the property in relation to the neighbouring dwellings, the outbuilding is unlikely to cause any harm by way of overshadowing/loss of light into habitable rooms of neighbouring dwellings. While a neighbour has referred to potential loss of light into the rear of their garden, this would be negligible in the context of surrounding tall trees and bushes and I am mindful that the previous structure had a greater ridge height.

Planning conclusions

11. For all of the above reasons, the appeal development (Appeal A or Appeal B) causes no harm to character and appearance or to living conditions. Accordingly, it is not in conflict with Policy 7 of the Havering Local Plan 2016-2031 (adopted 2021) - as supported by the Council's Residential Extensions and Alterations Supplementary Planning Document - which seeks a high level of residential design and amenity.
12. The appeal development accords with the development plan as a whole, and there are no other material considerations which outweigh this finding. I will therefore grant planning permission in respect of each appeal.
13. There is a clear justification to withdraw permitted development rights as respects new windows and openings in the outbuilding in order to control impacts upon neighbouring amenity. I am therefore attaching such a condition to each permission. I am declining to impose a condition suggested by the Council restricting use because it is unnecessary; use as separate living accommodation or for commercial use would be unlawful as a material change of use without the required planning permission.

Overall conclusions

14. For the reasons given above I conclude that Appeal A should succeed on ground (a) and planning permission will be granted. The appeal on ground (f) does not therefore need to be considered.
15. For the reasons given above I conclude that Appeal B should be allowed.

Andrew Walker

INSPECTOR

¹ Including the more closely situated dwelling at 157 Hillview Avenue

Condition – Appeals A and B

- 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows or other openings other than those expressly authorised by this permission shall be constructed.