

Kentish Town homeowner wins High Court battle over basement extension

3 December 2016 From the section [London](#)

<http://www.bbc.co.uk/news/uk-england-london-38194741>

A London homeowner has successfully challenged his neighbour's plan to build a basement extension under his house.

Michael Eatherley took out a judicial review after Camden Council said James Ireland did not need to go through the formal, costly, planning process.

Instead, it said he could extend his Victorian terrace by a single storey under development rights.

But at the High Court, Mr Justice Cranston ruled the council was wrong. Mr Eatherley said the extension would set a precedent and ruin the street.

There were 15 objections from adjoining occupiers, including a petition with 32 signatories, and the residents were supported by their ward councillor.

The homeowners were concerned about disruption, dirt and noise caused by the construction work, road access, loss of parking and the risk of instability given the fragility of the mid-19th century workers' cottages.

Mr Eatherley's lawyers argued the proposed work included a substantial engineering operation which was not within the permitted development rights.

Mr Justice Cranston said: "The question is of general interest but arises particularly frequently in central London because of economic and social factors, in general terms, the increasing pressure for space.

"It is a matter of controversy in the planning world and there is a split between local planning authorities as to the correct answer."

He said the council was wrong to have ruled that the works, such as the removal of the soil, was "entirely part" of the overall development which included the structural work, when instead they were two separate activities.

The council said its original decision "reflected its understanding (based on detailed QC's advice) of the correct legal interpretation of these regulations and we therefore had little option but to allow these issues to be tested in court."