The Planning Inspectorate

Appeal Decision

Inquiry Held on 17 May and 9 June 2021

Site visit made on 10 June 2021

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th September 2021

Appeal Ref: APP/E0345/C/20/3249309
Land at 8 St Johns Road, Caversham, Reading RG4 5AN

- 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 Ephraim Saffron Kifle against an enforcement notice issued by Reading Borough Council.
- The enforcement notice was issued on 14 February 2020.
- The breach of planning control as alleged in the notice is:
  1. Without planning permission, the erection of an outbuilding on the Land in the approximate location shown hatched on the attached Plan 'B'[1].
  2. Without planning permission, the change of use of the outbuilding on the Land to use as a self-contained accommodation.
  3. Without planning permission the erection of a part single, part two storey side and rear extension to the dwelling house on the Land.
  4. Without planning permission, the change of use of the dwelling house on the Land to use as a large House in Multiple Occupation.
  5. Without planning permission, the creation of a hardstanding in the approximate location shown cross hatched on the attached Plan 'B'.
- The requirements of the notice are:
  (a) Demolish in its entirety, including the associated fencing between points 'A' and 'B' and 'C' and 'D', the outbuilding in the approximate location shown hatched and the associated fencing on the attached Plan 'B'.
  (b) Make alteration to the width and length of the ground floor element of the two storey side/rear extension such that it accords with plan 3500/200 Rev C as approved by planning permission 171850 attached hereto as Plan 'C'.
  (c) Cease the use of the building on the land as a large House in Multiple Occupation and return it to use as a single dwellinghouse in Use Class C3.
  (c) Remove all kitchen facilities (including the sink unit, all storage cupboards, food preparation surfaces and any kitchen appliances whether built in or free standing) from the six en-suite bedrooms and the en-suite bathroom facilities from the three ground floor bedrooms and make other amendments as necessary so that the layout accords with plan 3500/200 Rev C as approved by planning permission 171850 attached hereto as Plan 'C'.
  (d) Reinstate the boundary wall and provide soft landscaping to the front of the building to accord with plan 3500/200 Rev C as approved by planning permission 171850 attached hereto as Plan 'C'.
  (e) Remove from the Land all debris and excess building material resulting from compliance with steps (a) to (d) above.
- The period for compliance with the requirements is six months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.

[1] Reference in the header to attached plans are to the plans attached to the enforcement notice.

Summary Decision: The appeal succeeds and permission is granted for part of the breach of planning control, but otherwise the enforcement notice is upheld as corrected and varied in the terms set out below in the Formal Decision.

Procedural Matters

1. The appeal was originally made on ground (e), but that ground of appeal was subsequently withdrawn by the appellant, as confirmed in the proof of evidence of Mr Benjamin Temple.

2. In the appellant's proof of evidence the ground (c) appeal was amended to include allegation 5, which is the creation of a hardstanding. As such, the Council did not respond to this in its written evidence. Nevertheless, the Council had the opportunity to respond to the appellant's case on this matter during the inquiry. I also asked the parties questions on this matter during the event. I am, therefore, satisfied that the Council were not prejudiced in this regard.

3. There are 6 requirements in part 5 of the notice, however two are labelled (c) in the list. To avoid confusion, I have referred to these as (c)1 and (c)2 in this decision.

4. Allegation 3 relates to the erection of a part single, part two storey side and rear extension to the dwelling house. From here onwards I will refer to this matter as 'the extension'.

5. Finally, the revised National Planning Policy Framework was published after the inquiry closed. The written comments of the parties were, therefore, sought with regard to the National Planning Policy Framework (20 July 2021). I have had regard to all comments received in determining this appeal.

The Notice

6. In its appeal submissions the Council set out a change in position with regard to allegations 1, 2 and 4 in part 3 of the notice. The Council proposed the deletion of allegation 4 and a change to allegations 1 and 2 to a single allegation of the erection of a self-contained unit/dwellinghouse. Corresponding amendments to the requirements in part 5 of the notice were also proposed.

7. A few days prior to the opening of the inquiry I received a statement of common ground (SOCG) signed and dated by the parties. This proposed a number of further changes to the notice that had been agreed. In addition to this, the appellant proposed an amendment to part 1 of the notice, suggesting that this should include reference to section 171A(1)(b) of The Town and Country Planning Act 1990 as amended (the 1990 Act).

8. At this point it is worth noting that the powers transferred to Inspectors under section 176(1)(a) of the 1990 Act include to correct any defect, error or misdescription in the enforcement notice or, under section 176(1)(b), to vary the terms of the enforcement notice. In each case, the only test is whether or not the correction or variation will cause any injustice to the appellant or the local planning authority. With these powers in mind, I will deal with each of the proposed amendments to the notice in turn, as follows.

The garden building

9. Allegation 1 and 2 relate to the building located in the rear garden of the appeal site. The Council suggest that the building was erected and used from the outset as a self-contained unit of accommodation (although I note that both parties confirm that occupation of the building as self-contained accommodation ceased prior to the inquiry). The appellant does not disagree with this. Accordingly, I agree with the Council, that separate allegations of (1) the erection of an outbuilding on the site, and (2) the change of use of the outbuilding to self-contained accommodation are not an accurate description of the breach of planning control that has occurred in this case. Having regard to the evidence before me, I am satisfied that an accurate description of the breach in this case is of the erection of a self-contained dwellinghouse.

10. In addition to this, the parties have agreed to a suggested variation to the notice, to allow for the retention of the building, but require that its use as a self-contained dwellinghouse cease. They have also suggested additional requirements to remove fencing that had been erected either side of the building (separating land either side and to the rear of the building from the remainder of the appeal site) and to remove certain kitchen items from the building.

11. If the notice is corrected and varied in this manner, the outcome would be for a deemed planning permission for the garden building to be granted by the notice (once all requirements of the notice have been complied with), in accordance with section 173(11) of the 1990 Act, but for the notice to prevent its use as a self-contained dwellinghouse. As I understand the intention is for the building to be used as an incidental outbuilding in association with 8 St Johns Road, it would then be for the appellant to obtain any necessary planning permission for this use.

12. The above correction to the allegations in combination with the agreed variation to the requirements are less onerous than those set out in the notice as issued. I am, therefore, satisfied that no injustice would be caused in changing the notice in the matter set out above. I will correct the notice replacing allegation 1 and 2 with the single allegation of the erection of a self-contained dwellinghouse. I will also vary requirement 5(a), but will omit the requirement to remove the fencing as I noted on my visit to the site that this has already been removed.

House in multiple occupation

13. With regard to allegation 4 in part 3 of the notice, the Council's original position was that both the main dwelling and the garden building together formed a 'large house in multiple occupation' accommodating 7 bedrooms. However, the Council's position on this has now changed. Whilst the main dwellinghouse at the appeal site is occupied as a house in multiple occupation (HMO) accommodating 6 bedrooms, the Council has confirmed that the accommodation comprised in the garden building does not form a 7th bedroom. The Council has, therefore, requested that I vary the notice to remove allegation 4.

14. I have no reason to conclude that the withdrawal of this allegation would cause injustice to any party. I will therefore remove allegation 4, as well as the corresponding requirements (c)1 and (c)2 from part 5.

The extension

15. Part 1 of the notice states that the breach of planning control stated in the notice, including the extension, falls under section 171A(1)(a) of the 1990 Act, which is a breach of planning control by carrying out development without the required planning permission. Allegation 3 is of the erection of the extension without planning permission; there is no reference in the allegation to development not in accordance with a planning permission.

16. On its face, the notice clearly alleges that the extension has been constructed without the required planning permission. However, the appellant has suggested that the notice is not correct in this regard. He has referred to the planning permission (reference 171850) granted for a 'Part-one, part-two storey side and rear extensions and associated alterations' on 31 January 2018. The appellant suggests that this grants permission for the development described in allegation 3, but suggests that there have been deviations from the approved plans. As such, he suggests that this breach of planning control falls within section 171A(1)(b) of the 1990 Act, which is failing to comply with any condition or limitation subject to which planning permission has been granted. The Council have agreed with the appellant on this, and have endorsed the proposed correction. The parties have also set this agreed position out in their joint note (ID5).

17. It is common ground that the footprint of the extension is some 20 square metres larger than that permitted, as demonstrated on the plan at the appellant's appendix BT-P6. This does not, however, take into account a section of the extension along its front elevation, where on the approved scheme the front elevation of the extension (and therefore its footprint) steps back. Nevertheless, in my judgement, even a 20 square metre increase in the footprint is a substantial increase in the scale of the development as built. In addition to this, the approved scheme proposes an entirely flat roof to the single storey element, whereas the as-built scheme includes a pitched roof element along the front elevation. The approved scheme also has a stepped front elevation, as mentioned above, with a garage door. On site there is a flat front elevation to the single storey element, with an entrance door and bay window. Furthermore, the fenestration in the ground floor rear and north facing elevations are entirely different to the approved scheme.

18. I acknowledge that the two storey element broadly accords with the approved plans. However, the differences set out above amount to a substantial deviation from the approved scheme of development, such that I cannot conclude that the development was commenced in accordance with the 171850 permission, but then deviated from the approved scheme. I can only conclude that the 171850 permission has not been implemented. Accordingly, I find the notice to be correct, that the extension has been carried out without the required planning permission. This is a breach of planning control that falls squarely within section 171A(1)(a) of the 1990 Act. There is, therefore, no need to amend the notice, as suggested.

19. With regard to the corresponding requirement of the notice, part 5(b), having considered the Council's initial evidence, it would appear that it had the intention of bringing the extension in line with the 171850 planning permission, including its conditions and limitations. Indeed, a notice can require that development is altered so that it complies with an extant planning permission,

regardless of whether the breach of planning control in question falls within section 171A(1)(a) or 171A(1)(b) of the 1990 Act. However, at the inquiry I advised the parties of my concern that requirement 5(b) as drafted would not achieve this aim. The notice requires only alterations to the width and length of the ground floor element of the extension in accordance with the approved plan. It does not require any other alterations, compliance with the planning permission as a whole, or compliance with the conditions and limitations of the planning permission; it would be unreasonable to conclude that these requirements are implied.

20. After some discussion on this point, the joint note prepared by the parties sets out an agreed position should I conclude, as I have done, that the extension has been carried out without planning permission and that the 171850 permission has not been implemented. In this it is suggested that, in the event that I dismiss the ground (a) appeal, part 5 of the notice should be amended to require compliance with the conditions of the 171850 permission[2].

21. Firstly, I have a duty to put the notice in order prior to considering the ground (a) appeal, or indeed any other of the grounds of appeal. Secondly, as acknowledged by the parties[3], the period within which the 171850 planning permission must begin has now expired. As such, the permission, including its conditions, is no longer extant and compliance with its conditions cannot be achieved. Finally, whilst I note the agreed position with regard to the suggested additional requirements, I cannot be satisfied that injustice would not be caused, particularly as the suggested additions to the notice would make it more onerous.

22. In summary on the matter of the notice as it relates to the extension, I find no fault with reference in part 1 of the notice to section 171A(1)(a) alone of the 1990 Act, and I am satisfied that this reflects the breach of planning control as put in allegation 3 of part 3 of the notice. Furthermore, whilst part 5(b) of the notice does not require compliance with the 171850 planning permission as a whole, including its conditions and limitations, I am not able to vary the notice to add this requirement as the 171850 permission is no longer extant. Even if I were, I am not satisfied that such a variation would not cause injustice. For these reasons, part 1 and 5(b) of the notice will not be varied as suggested.

23. Notwithstanding the above, I will add reference to the elevation plan[4] in the requirements, in the interests of clarity. I will also vary requirement 5(e) so that it only refers to 'step (b)', as this step will be the only requirement of the notice that will result in any 'debris and excess building material'. It will also be necessary to alter the numbering of the remaining matters to be listed in part 3 and 5 of the notice.

The remaining grounds of appeal

24. In view of the parties' agreement to most of the above corrections and variations, the SOCG now confirms the matters that remain in dispute between the parties under each of the grounds of appeal. In the first instance, it confirms that there are no longer any matters in dispute under ground (b). I

[2] Paragraph 15 of ID5.
[3] Paragraph 14 of ID5.
[4] Plan reference 3500/201 Revision C.

have taken from this that the appellant's ground (b) appeal has been withdrawn. The SOCG also confirms the following:

- the only matter in dispute under ground (c) relates to allegation 5 (i.e. the hardstanding);
- the matters in dispute under ground (a) relate only to allegations 3 and 5 of part 3 of the notice (i.e. the extension and the hardstanding);
- the only matter in dispute under ground (f) relates to requirement 5(d) (i.e. the requirement to reinstate the front boundary wall and landscape);
- the ground (g) appeal does not relate to the requirement of the notice that will substitute 5(a). Accordingly, the ground (g) only relates to the remaining requirements 5(b), (d) and (e).

25. I have determined the appeal on this basis.

Ground (c)

26. To succeed on ground (c), the appellant must demonstrate that, on the balance of probability, the matters alleged in the notice do not constitute a breach of planning control. The burden of proof is on the appellant.

27. The appellant's ground (c) appeal relates only to allegation 5, which is the creation of a hardstanding. The appellant suggests that this development is permitted by reason of Class F of Part 1, Article 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 2015 Order). Class F permits the provision within the curtilage of a dwellinghouse of a hard surface for any purpose.

28. The Council point to the layout plan (3500/200 Rev C) approved by reason of the 171850 permission and suggest that the hardstanding does not accord with what was approved; that it is in a location where a lawn and new planting had been proposed. It is suggested that the hardstanding is in breach of condition 2 of the 171850 permission, which requires the development to be carried out in accordance with the approved plans, which includes the layout plan. For this reason the Council refer to Article 3(4) of the 2015 Order and suggest that the hardstanding is not permitted by the 2015 Order.

29. Whilst the above is noted, I have concluded that the 171850 permission has not been implemented and has, therefore, expired. For this reason the hardstanding cannot be regarded as having been provided in breach of this permission or any of its conditions. Furthermore, when the Council were asked about the appellant's case with regard to the hardstanding, I was given no other reason to find that the provisions of Article 3(5) of the 2015 Order were engaged and that the permission granted by Class F would not apply in this case.

30. The appellant acknowledges that the circumstances set out in the condition of the permission granted by the 2015 Order[5] apply in this case, but suggests that

[5] F.2. of Class F, Part 1, Article 3, Schedule 2 of the 2015 Order - Development is permitted by Class F subject to the condition that where - (a) the hard surface would be situated on land between a wall forming the principal elevation of the dwellinghouse and a highway, and (b) the area of ground covered by the hard surface, or the area of hard surface replaced, would exceed 5 square metres, either the hard surface is made of porous materials, or provision is made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse.

the hardstanding is made of porous material. On this point the Council agreed, and I have no reason to conclude otherwise.

31. Having regard to all of the above, I can only conclude that the development consisting of the creation of a hardstanding is, on the balance of probability, permitted by Class F of Part 1, Article 3, Schedule 2 of the 2015 Order, and does not constitute a breach of planning control. For this reason the ground (c) appeal should succeed and I will remove allegation 5 from the notice.

32. As for the corresponding requirements, whilst I note that there is no requirement to remove the hardstadning, 5(d) of the notice requires the 'reinstatement of the boundary wall' as well as the provision of soft landscaping in accordance with plan number 3500/200 Rev C. In its response to the appellant's ground (c) appeal the Council refer to the removal of the wall and, as noted above, suggest that the removal of soft landscaping and the dwarf wall were in breach of the 171850 permission. In view of this, and as there is no allegation of development consisting of the removal of the wall, I can only conclude that requirement 5(d) as a whole was intended to remedy the breach of planning control consisting of the hardstadning. As I intend to remove the allegation the creation of a hardstadning, it therefore, follows that I must remove the requirement intended to remedy this breach of planning control.

33. Accordingly, the ground (a) appeal and the deemed planning application, as well as the ground (f) and (g) appeal do not fall to be considered insofar as they relate to the hardstanding and allegation 5 of the notice.

Ground (a) and the deemed application for planning permission

Main Issues

34. The appeal on ground (a) is 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.

35. The SOCG confirms that the garden building is no longer a matter in dispute under the ground (a) appeal. Furthermore, in view of my conclusions on the ground (c) appeal above, the only matter that remains the subject of the ground (a) appeal and the deemed planning application is allegation 3, which is the erection of the extension.

36. I note the substantive reasons for issuing the enforcement notice as they relate to allegation 3. From these I have identified the main issues as follows:

- whether the development provides an adequate standard of amenity for the occupiers of the dwellinghouse, specifically in relation to garden space; and
- the effect of the development on the living conditions of the occupiers of the neighbouring dwelling at 10 St Johns Road, specifically in relation to noise and disturbance.

The 171850 permission

37. Whilst I note that both parties have specifically referred to the 171850 permission, I have concluded that this permission has not been implemented and is, therefore, no longer extant. Furthermore, I also note that this permission was granted prior to the adoption of the Reading Borough Local Plan (Adopted November 2019)(RBLP) and the policies it contains that are relevant to this appeal. Accordingly, whilst I have had regard to the approved scheme, it is of minimal weight in the determination of this appeal.

Reasons

38. In both the written and oral evidence a number of policies and guidance documents have been suggested as being relevant to the main issues in this case. I have considered each of these in turn.

39. Policy H10 (Private and Communal Outdoor Space) of the RBLP requires, amongst other matters, that dwellings have functional private open space that allows for suitable sitting-out areas, children's play areas, home food production, green waste composting, refuse storage, general outdoor storage and drying space. The Policy requires the design of outdoor areas to respect the size and character of other similar spaces in the vicinity. It also provides some design specifications relating to such matters as safety, and the location of outdoor space in relation to main entrances and other buildings.

40. Reference was made to the supporting text of Policy H10, in particular paragraph 4.4.87 which states that the minimum provisions for private outdoor space sought by the Council in the past are a useful guide for proposals. In the case of houses, the useable private outdoor space previously sought was no less than the gross floor area of the dwelling to which it relates (measured externally and including garage space). This is reiterated at paragraph 6.1.2 of the Council's newly published Design Guide to House Extensions, Supplementary Planning Document, Adopted March 2021 (HESPD), which replaces the previous supplementary planning guidance document of the same title. It states that usable outdoor space is considered to consist of rear gardens and side access, and, where it is genuinely useable for amenity purposes, front gardens, but does not include car parking spaces or garages. The HESPD acknowledges that in many instances rear gardens in historic areas are already less than that of the internal floor space, and as such will be assessed on a case by case basis.

41. Policy CC8 of the RBLP prohibits development that will cause a detrimental impact on the living environment of existing residential properties or unacceptable living conditions for new residential properties in terms of, amongst other matters, noise and disturbance.

42. Both policies CC7 (Design and the Public Realm) and H9 (House Extensions and Ancillary Accommodation) of the RBLP primarily relate to the design of development and its effect on the character and appearance of buildings and the surrounding area. Having regard to the main issues I have identified and each parties' case in this regard, these policies are of limited relevance to my consideration of this ground (a) appeal.

Living conditions – occupiers of the site

43. Having noted the context of the appeal site, the plot is particularly large when compared to most within the immediate vicinity. The development subject of the appeal comprises a two storey rear and side extension with a single storey extension across much of the remaining width of the plot and into the rear garden. The new extension appears to replace previous extensions and a garage, although the new development occupies a larger area of the site and extends further into the rear garden. The site is also occupied by the garden building, which the notice will not require to be removed, once varied as intended.

44. Compared with the remaining original development on site, the extension occupies a large area of the plot. When considered together with the garden building, the new development on site has taken away a significant area of the private rear garden serving 8 St Johns Road. However, as noted above, the appeal site occupies a particularly large plot that has accommodated the extent of new development whilst retaining a notable area of outdoor space. The appellant suggests the outdoor space remaining is between 215 and 217 square metres[6] and that the gross internal floor area of No 8 is some 212 square metres. Accordingly, the appellant suggests that the private outdoor space serving the dwelling accords with the supporting text of Policy H10 and the HESPD, as referred to above. The Council say that the calculation of the internal floor area of the dwelling should include that of the garden building, which is excluded from the appellant's calculations. In these circumstances, the Council suggest that the minimum provision would not be achieved.

45. Whilst I note the dispute between the parties with regard to the calculation, both the supporting text of Policy H10 and the HESPD are clear, that the comparison of outdoor space with gross internal area (GIA) is a 'useful guide'; it is not prescriptive. The HESPD acknowledges that there are circumstances where the ratio of outdoor space to GIA might not be achieved and advises that these should be assessed on a case by case basis.

46. In this regard, the appeal site is in an urban area, which I consider to be a historic area for the purposes of the HESPD[7]. The properties in the immediate vicinity of the appeal site are mainly characterised by dwellings with limited garden sizes. There is a close relationship between the gardens and buildings of adjoining properties. As such, the outdoor space serving the appeal dwelling is not out of character within this setting, even if it is below the standard suggested.

47. With regard to the function of the outdoor space, the position of the garden building within the plot has resulted in strips of space to the side and rear of the building. There is also an access path to the side of the extension, along the southern boundary of the site. Whilst the shape of these areas limits their use, I am satisfied that these areas are suitable for composting and refuse storage, some home food production, general outdoor storage, and drying space. Indeed, I noted a storage building to the rear of the site. The side path also provides external access to the front of the property.

[6] Figures provided in at paragraph 6.33 of Benjamin Temple's proof of evidence and in his appendix BT-P4.
[7] Paragraph 6.1.2 of the HESPD.

48. The majority of the outdoor space wraps around the single storey element of the extension in an 'L' shape to the rear of the dwelling, and between the extension and the boundary of the appeal site with No 10. This area has been laid with a patio and astro turf, and provides an area, the size and shape of which is suitable for residents to sit out or for children to play (although, being a HMO, the property is unlikely to be occupied by children). I acknowledge that the residents of the HMO may not use the garden together, as a single household might do. However, having regard to the size and shape of the outdoor space, I am satisfied that it can adequately accommodate multiple separate users.

49. In addition to the above, I have had regard to the letters in support of the appeal from some residents of No 8 and note how they describe the accommodation, which would include the extension and the remaining garden space. They express their satisfaction with the accommodation and the space provided at the property.

50. All of the above considered, I am satisfied that outdoor space remaining to serve the property at No 8 is appropriate to serve the residents of the property.

Living conditions – occupiers of the neighbouring dwelling

51. I was able to view the appeal site from the rear garden of No 10. This adjoining property has also been extended, resulting in a small sitting out area enclosed on two sides by the property itself and separated from the appeal site by a timber boundary enclosure. This area is access from the neighbour's property by two sets of patio doors, one of which faces the appeal site. The remainder of the garden has a linear shape and is more open in character.

52. Although the sitting out area has an intimate character, it has a close relationship to the patio area on the appeal site (to the side of the extension that is the subject of this appeal). As these areas are only separated by the timber boundary fence, I can appreciate that movement and noise in that part of the appeal site would be more noticeable when using the sitting out area at No 10, and that odour from cigarette smoke from the patio might also be more noticeable.

53. In this regard, I acknowledge the representations of the neighbouring occupiers and do not underestimate their strength of feeling in this case. However, I am mindful that the outdoor space on the appeal site can lawfully be used as a garden by the occupiers of No 8, regardless of the presence of the extension that is the subject of this appeal. The use of the premises as a HMO is no longer in dispute in this case and my consideration of this ground (a) appeal is only confined to the effect of the built development (i.e. the extension). In this regard, I acknowledge that the extension has had the effect of enclosing the side patio, which has a close relationship to the neighbouring property. Nevertheless, this close relationship is not unusual within the immediate context of the appeal site.

54. I also note that there is no means of entering the extension from the side patio. The main entrance is in the rear elevation of the extension, facing the garden building. Movement from the property into the garden is, therefore, not directed towards No 10.

55. Whilst the extension has also reduced the area of rear garden available, I have concluded above that this area is still sufficient in size to serve the occupiers of No 8. Accordingly, whilst the development may have resulted in an intensification in the use of the garden, I cannot conclude that the effect of this on the occupiers of the adjoining property is unacceptable, particularly having regard to the character of the surrounding area, as described above.

56. With regard to the boiler and external flue, the boiler is located within an enclosed room in the extension, and the flue is set back from the boundary with No 10. Boilers and outlets are commonplace in domestic properties, and I have no reason to conclude that this element of the development is not inappropriate on a domestic property such as this. Whilst I acknowledge the concerns regarding noise and odour, I have no technical information on these matters that would lead me to conclude that this element of the development has resulted in an unacceptable degree of harm.

Summary

57. Having regard to all evidence before me, I conclude that the development (the extension) has an acceptable effect on the living conditions of the occupiers of the site. Whilst I acknowledge the representations before me, in my judgement the development does not have an unacceptable effect on the living conditions of the neighbouring occupiers at No 10. For these reasons I am satisfied that the development complies with policies H10 and CC8 of the RBLP. The extension does not have an unacceptable effect on the living environment of neighbouring properties, and the remaining outdoor space is suitably functional. Furthermore, I have identified no conflict with HESPD or any other policy or guidance document brought to my attention.

Other Matters

58. Whilst I note the representations made with regard to the use of the property as a HMO and to the garden building, as the ground (a) appeal no longer relates to these matters, I am not able to consider these representations in determining this appeal. I have, however, had regard to the representations made in respect of the design of the extension and its effect on the amenity of the area, as well as parking.

59. The extension is subservient in its character to the original dwelling. Whilst its footprint is large, the extension is not an overtly prominent development within the street scene, particularly as both the two storey and single storey element are set back from the front elevation of No 8. The materials are in keeping with the original dwelling and others in the area, and the roof forms are sympathetic to the host building. In all, I consider the extension to be acceptable in terms of its design, and its effect on the character and appearance of the surrounding area.

60. As for the effect of the development on parking, I acknowledge that the extension has reduced the extent of off-street parking available on the site. The as-built plans show the provision of three off-street parking spaces. Nevertheless, I have not been advised that the on-site parking provision is below any standard set by the Council. Furthermore, the Council do not acknowledge that the demand for on-street parking is a particular issue in this area. As such, I have no reason to conclude that the extension has resulted

in an unacceptable demand for on-street parking and, therefore, harm being caused to highway safety in the area.

Conditions

61. I note the list of suggested conditions[8], most of which were agreed by the parties. I consider each of these, as follows, and where necessary I have amended the wording suggested in the interests of precision and clarity in order to comply with advice in the Planning Practice Guidance: Use of Planning Conditions.

62. The deemed planning permission will not be granted for development as shown on the set of plans listed, but will be for the development that is alleged in the notice, as carried out on site. It is not, therefore, appropriate to impose a condition requiring the development to be completed in accordance with the plans listed.

63. Having regard to the close relationship of the appeal site and adjoining properties, the conditions prohibiting new windows in the extension and the use of the flat roof as a sitting out area are necessary, in the interests of the living conditions of nearby residents. The condition requiring the retention of the on-site parking provision is also necessary, in the interests of highway safety.

64. At the inquiry the appellant confirmed that the floor level of the extension is no lower than the floor level in the existing property, and that all but one of the flood resistance and flood resilience measures set out in document ID2[9] were implemented when the extension was constructed. I have no reason to doubt this. Accordingly, the condition relating to this matter is not necessary, save for the requirement to implement water buts to the rear of the dwelling. This requirement will assist in preventing incidents of flooding and is, therefore, necessary.

65. Planning permission would be required to change the use of the extension to a use falling within use class B1 of Part B or use class C4 of part C of schedule 1 of the 1987 Order. As such, the condition prohibiting this change of use is not necessary.

66. Landscaping is an essential element of good design and the soft landscaping comprising the climbing plants close to the extension assist in enhancing the development and its effect on the street scene. A condition requiring the retention of this planting is, therefore, necessary and I do not consider it to be out of character with the varied landscaping I observed within the area.

67. With regard to the suggested conditions requiring the reinstatement of part of the front boundary wall and the landscaping of part of the hardstanding to the front of the dwelling[10], I acknowledge that the wall and landscaping in this location were part of a more comprehensive scheme of development for the site that included a hard standing area to the front of the property (approved by reason of the 171850 permission). However, the permission I will grant is for the extension alone. In this regard, I note that there is a degree of

[8] Document ID 4
[9] Document entitled 'Flood Risk Assessment for 8 St Johns Road, Caversham, RG4 5AN' – submitted to the inquiry in an email dated 2 June 2021
[10] As shown on plan number 3500/200 revision C, referred to by the Council in the suggested condition.

separation between the area that would be occupied by the wall and landscaping and the extension. I am not, therefore, able to conclude that the landscaping and wall would relate to the extension such that they would enhance the development. As such, I do not find the suggested conditions reasonable or relevant to the development to be permitted in this case.

Conclusion

68. For the reasons given above, I conclude that the remaining element (i.e. the extension alone) of the ground (a) appeal should succeed and planning permission will be granted for the extension subject to conditions. I now set out how this conclusion will affect the content of the notice and the remaining grounds of appeal as they relate to the extension.

69. In addition to the extension, the notice will target other development (i.e. the garden building), even when it has been corrected and varied in the manner I set out at various points above. For this reason the notice will not be quashed. I will not, however, remove allegation 3 (i.e. the extension) from the notice, despite my conclusion on the ground (a) appeal, as this allegation describes the development for which I will grant planning permission. It therefore follows that the requirements of the notice relating to the extension, 5(b) and (e), must also remain so as to avoid any grant of unconditional planning permission for the extension through section 173(11) of the 1990 Act. However, in accordance with section 180(1) of the 1990 Act, the appellant can rely on the notice (including requirement 5(b) as corrected) ceasing to have effect insofar as it will be inconsistent with the planning permission I will grant.

70. With regard to the remaining ground (f) and (g) appeal, these do not fall to be considered insofar as they relate to the extension and the corresponding requirements 5(b) and (e).

Overall Conclusions

71. For the reasons given above, and having regard to the corrections and variations set out in 'The Notice' section of this decision, I conclude that the remaining elements of the appeal on grounds (c) and (a) should succeed and that the grounds (f) and (g) appeal do not fall to be considered. I will grant planning permission for the extension, but otherwise I will uphold the notice with corrections and variations. In accordance with section 180 of the 1990 Act, the requirements of the notice will cease to have effect in so far as they are inconsistent with the planning permission which I will grant.

Formal Decision

72. It is directed that the enforcement notice is corrected by:

- The deletion in part 3 of paragraphs 1. and 2. in their entirety and their substitution with the words '1. Without planning permission, the erection of a self-contained dwellinghouse in the rear garden on the Land in the approximate location shown hatched on the attached Plan B ("the Dwellinghouse")';
- The renumbering in part 3 of paragraph '3.' to '2.'; and
- The deletion in part 3 of the paragraphs numbered 4. and 5. in their entirety.

73. It is directed that the enforcement notice is varied by:

- The deletion in part 5 of the paragraph listed as (a) in its entirety and its substitution with the words '(a) Cease the use of the self-contained dwellinghouse as a self-contained dwellinghouse and remove from the self-contained dwellinghouse any cooker, hob, microwave and fridge';
- In the paragraph listed as (b) in part 5 the insertion after the words 'plan 3500/200 Rev C' of the words 'and plan 3500/201 Rev C', and the insertion at the end of the paragraph the words ' and Plan 'D' respectively';
- The insertion after the plan attached to the notice and labelled 'Plan 'C'' of the plan number 3500/201 Revision C[11] attached at the end of this decision and labelled 'Plan 'D'';
- The deletion in part 5 of both paragraphs listed as (c) in their entirety and the paragraph listed as (d) in its entirety;
- In the paragraph listed as (e) in part 5 the deletion of the words '(a) to (d)' and their substitution with the letter '(b)'; and
- The change of the lettering in part 3 of the paragraph listed as '(e)' to '(c)'.

74. Subject to the corrections and variations, the appeal is allowed 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 erection of a part single, part two storey side and rear extension to the dwelling house on the Land at 8 St Johns Road, Caversham, Reading RG4 5AN, and subject to the following conditions:

1) The flat roof area of the extension hereby permitted shall not be used as a roof terrace or sitting out area and any access out onto this flat roof area shall only be for the purposes of maintenance or as a means of escape in an emergency.

2) Within three months from the date of this decision the water buts listed in the document entitled 'Flood Risk Assessment for 8 St Johns Road, Caversham, RG4 5AN' (received 2 June 2021) shall be installed to the rear of the dwelling and shall thereafter be retained in perpetuity.

3) 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 shall be constructed in any elevation of the extension hereby permitted.

4) The soft landscaping in the form of 8 climbing plants on the southern boundary adjacent to the front parking area shall be retained and if any of these plants die, are removed or become seriously damaged or diseased within a period of 5 years from the date of this decision, they shall be replaced in the next planting season with others of similar size and species.

5) A minimum of three vehicle parking spaces on the site to the front of the dwelling shall be retained in perpetuity for the parking of vehicles in

[11] Found at the Council's appendix 3.

association with the extension hereby permitted and the remainder of the property at 8 St Johns Road.

75. The enforcement notice is upheld as corrected and varied.

J Moss

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Edward Grant	Cornerstone Barristers
He called:	
Mr Ephraim Saffron Kifle	The Appellant
Mr Benjamin Temple CHE PGDip	Director ET Planning

FOR THE LOCAL PLANNING AUTHORITY:

Mr Matthew Dale-Harris	Landmark Chambers
He called:	
Mrs Susanna Bedford BA(Hons) MDIP MRTPI	Reading Borough Council.

INTERESTED PERSONS:

Shirley Strickland	Local resident
Anna Clarke	Tenant
Jean Harper	Local resident
Heather Lloyd Payne	Observer - tenant
Cllr Jane Stanford-Beale	Observer - local councillor
Jack Biddle	Observer
Mrs Lyana Powlesland	Observer

INQUIRY DOCUMENTS

ID1. Signed affidavit of Mr Chris Keen
ID2. Document entitled 'Flood Risk Assessment for 8 St Johns Road, Caversham, RG4 5AN' – submitted to the inquiry in an email dated 2 June 2021
ID3. Proposed Site Plan reference PL-09 Rev C
ID4. Suggested list of conditions
ID5. Counsels' Joint Note

The Planning Inspectorate

Plan

This is the plan referred to in my decision dated: 7th September 2021

by J Moss BSc (Hons) DipTP MRTPI

Land at: 8 St Johns Road, Caversham, Reading RG4 5AN

Reference: APP/E0345/C/20/3249309