



Appeal Decision

Site visits made on 29 September 2020, 4 May 2021 and 1 September 2021

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State

Decision date: 28 October 2021

Appeal Ref: APP/W2465/C/19/3232202

Land at 2 Windermere Street, Leicester LE2 7GT

- 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 Jaspal Kullar of Junior Property Ltd against an enforcement notice issued by Leicester City Council.
- The enforcement notice was issued on 29 May 2019.
- The breach of planning control as alleged in the notice is:
Without planning permission, the material change of use of the Property from a dwellinghouse (Class C3) to a hot food takeaway (Class A5) on the ground floor and three self-contained flats on the ground floor rear, the first floor and the second floor and the construction of a detached building to the rear of the Property to provide one self-contained flat (Class C3).
- The requirements of the notice are:
 - 5.1 Cease the use of the ground floor rear, the first floor and the second floor of the Property as three self-contained flats.
 - 5.2 Remove all fixtures and fittings from the ground floor rear, the first floor and the second floor of the Property in connection with the use as self-contained flats.
 - 5.3 Demolish the detached building to the rear of the Property as outlined in blue on the plan attached to the enforcement notice.
 - 5.4 Dispose of all waste materials.
- The period for compliance with the requirements is 16 weeks.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (b), (f) and (g) of the Town and Country Planning Act 1990 as amended (the 1990 Act). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the 1990 Act.

Summary Decision: The appeal succeeds in part and the enforcement notice is upheld as corrected and varied in the terms set out below in the Formal Decision.

Preliminary Matters and Background

1. Accompanied site visits were arranged for 29 September 2020 and 4 May 2021 but on both of these occasions access to the internal parts of the property was not available and the site visits had to be aborted. On the 1 September 2021 access inside 3 of the flats was achieved but I was not able to view the interior of flat 4 on the second floor of the property. Both parties were given the chance to submit an existing floor plan relating to flat 4. A floor plan¹ of the flats including flat 4, that had been submitted with a planning application² in 2018 (the 2018 application), was submitted by the Council after the latest site visit. I am satisfied that the undisputed floor plan, together with my external

¹ RPD/JULY/2018/073/02

² Ref No: 20181600

viewing from the front and rear and from the internal hallway, provide adequate information upon which the appeal can be determined.

2. The appeal property forms the end of a terrace, it is 2-storey with rooms in the roof and is located at the junction of Windermere Street and Grasmere Street. In 1980 planning permission³ was granted for the change of use of the premises from a shop to an office. A condition attached to the permission restricted the office use to that of a Family Advice Centre only. In 1999 planning permission⁴ was granted for the construction of a single storey extension at the rear and the bricking up of a doorway. The single storey extension has been constructed. The application report associated with that planning permission states that the property was to be used as a house in multiple occupation for five students.
3. The 2018 planning application, cited above, was made retrospectively for change of use from shop with living accommodation to shop and two self-contained flats (2 x 1 bed) and construction of detached building to provide one self-contained flat (1 x 1 bed). This application was refused by the Council. The Council have stated that it considers that the lawful use of the property is as a dwellinghouse.
4. In 2019 a planning application⁵ was submitted for the retention of two flats and the detached building. The Council refused to determine this planning application as it had been submitted after the enforcement notice was issued.
5. A number of plans have been submitted within the evidence before me. Some of those plans⁶ relate to alternative schemes put forward through the written evidence for the ground (f) appeal. However, the remaining plans⁷ appear to relate to the 2018 and 2019 planning applications cited above and are not specifically cited as alternative schemes within the ground (f) appeal. I have dealt with the appeal on this basis.
6. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeal was lodged. However, the relevant sections to this appeal have not materially altered. As such, in the circumstances of this case I do not consider that it is necessary to seek the further views of the parties. I am required to consider the appeal on the basis of the current Framework.

The Notice

7. On an appeal any defect, error, or misdescription in an enforcement notice may be corrected using the powers available in section 176(1)(a) of the 1990 Act, or the terms may be varied, where the correction or variation will not cause injustice to the appellant or local planning authority.
8. Requirement 5.1 is to '*cease the use of the ground floor rear, the first floor and second floor of the Property as three self-contained flats*'. However, the number of flats enforced against in the main building is already clearly set out in the notice within the description of the matters which appear to constitute a

³ Ref No: 19800204

⁴ Ref No: 19990662

⁵ Ref No: 20191140

⁶ RPD/JULY/2018/073/02 REV B: 11.12.18 and RPD/JUNE/2-019/079/03

⁷ RPD/OCT/2018/073/05; RPD/OCT/2018/073/06; RPD/JUNE/2-019/079/02; RPD/JUNE/2-019/079/04; RPD/JUNE/2-019/079/01 and RPD/JULY/2018/073/04

breach of planning control. Therefore, specifying the precise number of flats in requirement 5.1 is unnecessary. It may also lead to uncertainty as to what the notice requires, for example if a greater or lesser number of flats were formed without planning permission. Consequently, I intend to correct the notice by deleting the number of flats from requirement 5.1. In doing so, I am satisfied that there will be no injustice caused to the appellant or the Council.

9. I observed at all of the site visits that the front part of the ground floor was in use as an office. Both parties were given the chance to comment on the implications of this alteration in circumstances in relation to the alleged breach of planning control. There is no dispute that the use of this part of the ground floor has altered since the enforcement notice was issued and that the office use has replaced that of the alleged hot food takeaway. As such, the enforcement notice could not have cited the office use within the description of the alleged breach or its requirements as it was not occurring at the time it was issued. Consequently, it is not necessary to correct the notice in this respect.

The ground (b) appeal

10. This ground of appeal has been made only in relation to the hot food takeaway use of part of the ground floor. The appellant has stated that at the time the enforcement notice was issued the front part of the ground floor was being used as a café/restaurant rather than a hot food takeaway. To succeed on this ground, the onus is upon the appellant to demonstrate on the balance of probabilities that part of the ground floor was in use as a café/restaurant and not as a hot food takeaway at the time when the notice was issued.
11. According to the appellant food was largely prepared off site, brought to the site for final preparation and sale. There were no cooking facilities within the unit and food was only warmed up if needed in a microwave. It is also stated that a range of hot and cold food, such as sandwiches and wraps, and drinks were sold from the unit.
12. However, facilities to consume food on the premises, such as tables, chairs, cutlery and condiments, would need to have been available for the unit to be used as a café/restaurant. There is no specific evidence that accompanies the appellant's statement of case to demonstrate that those facilities were available. I have not for example been provided with dated internal photographs, statutory declarations from customers/occupiers of the unit, menus, opening times or a floor plan.
13. For the reasons given above, it has not been demonstrated on the balance of probability that part of the ground floor was not in use as a hot food takeaway at the time the notice was issued. Consequently, the ground (b) appeal fails.

The ground (a) appeal and deemed planning application

Background and Main Issues

14. An appeal on ground (a) is that planning permission ought to be granted, either wholly or in part, for the breaches of planning control alleged at section 3 of the enforcement notice.
15. The Council has chosen to "under-enforce" under section 173(3) of the 1990 Act in relation to the hot food takeaway use described at section 3 of the enforcement notice as there is no requirement to cease that use.

16. Section 173(11) of the 1990 Act would be applicable in relation to this part of the alleged breach of planning control if (a) and (b) of that section are met. This section states that: *'where (a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and (b) all the requirements of the notice have been complied with, then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.'*
17. Moreover, the appellant's evidence in relation to the ground (a) appeal and deemed planning application only relates to the self-contained flats within the main building and the construction of the detached building to provide a self-contained flat. Consequently, based on my observations and the evidence before me, the main issues in these respects are:
- The effect of the development on the living conditions of existing and future occupiers of the self-contained flats, having regard to internal size, layout, outlook and external amenity space and on the living conditions of existing and future occupiers of the self-contained flats and nearby residents, with regard to the ability of the area to assimilate the development.
 - The effect of the detached building on the character and appearance of the area.

Reasons

Living conditions

18. Three of the self-contained flats are located within the main building with the remaining one being located within the detached outbuilding. Saved Policy H07 of the City of Leicester Local Plan (LP) states that planning permission will be granted for new flats and the conversion of existing buildings to self-contained flats, provided the proposal is satisfactory in respect of a number of criteria. These include the creation of a satisfactory living environment, the arrangements for waste bin storage and cycle parking and the provision, where practicable, of a garden or communal open space.
19. Saved LP Policy PS10 states, amongst other things, that in determining planning applications a number of factors concerning the amenity of existing or proposed residents will be taken into account. The factors include the ability of the area to assimilate development.
20. The Framework states within section 12, amongst other things, that good design is a key aspect of sustainable development and developments should achieve a high standard of amenity for existing and future users.
21. A national system of housing standards commenced in 2015. However, these internal space standards can only be applied if there is a relevant development plan policy and then they may only require compliance with the Nationally Described Space Standard (NDSS). Saved LP Policy H07 predates these matters and therefore cannot apply the NDSS. Nonetheless, the NDSS provides an established benchmark against which to evaluate developments. I have therefore taken it into account when assessing the internal size of the living

space provided within each self-contained flat with regard to the living conditions of the existing and future occupiers of those flats.

22. The minimum gross internal floor areas (GIA) included within the NDSS are 37m² for a 1bed 1 person flat and 50m² for a 1 bed 2 person flat. The floor plan submitted in relation to the 2018 application indicates that Flat 1 on the ground floor is 26m², Flat 2 in the outbuilding is 23 m², Flat 3 on the first floor is 29m² and Flat 4 on the second floor is 20m². As such, the floor space for each flat is appreciably below the minimum standard within the NDSS for a 1 bed 1 person flat. Furthermore, it was clear from my observations that Flat 1 and Flat 3 are currently occupied by at least 2 people in each flat.
23. The living room in Flat 1 also acts as a corridor to access all the other rooms and this in combination with the restricted size of the living room means that there is limited space for furniture and personal belongings. In Flat 2 there is a combined living/bedroom and given the combination of those uses and the constrained size of the room there appears to be little space for relaxation and circulation due to the limited space for furniture and personal belongings. Flat 3 has a separate bedroom and a larger living/kitchen area and I note that the Council has stated that it does not raise any objection to the retention of this flat on its own. Nevertheless, the living area of that flat also appears to be currently utilised as an additional bedspace.
24. I consider that Flats 1, 2 and 3 have noticeably restricted movement and circulation space allowing for only a limited range of furniture and storage space for personal belongings. The overall impression of these flats is that they feel distinctly cramped due to their internal size and layout. I consider that Flat 4 would also feel cramped due to its limited internal size in combination with the flat being within the roof space.
25. From my visit it was also evident that with respect to Flat 1, the standard of outlook from windows serving the living room and the kitchen was particularly poor. The outlook from the living room window being largely onto the wall of the detached building which is relatively close to that window. The kitchen window is relatively small, and it is at a high level. Flat 4 is served by skylights only, and therefore the occupiers of that unit do not benefit from any direct outlook. I am in no doubt that this results in oppressive living conditions for the occupiers of these respective units.
26. Realistically, each flat could have its own domestic 'wheelie' bin which means that 4 bins could be stored on the pavement adjacent to the side wall of the property. Given the city centre location, each flat would more than likely also have a bicycle that needs to be stored/parked. I acknowledge that due to the nature of the existing terraced housing on Windermere Street that each house appears to store its 'wheelie' bin on the pavement adjacent to its front elevation. This means that these bins form part of the existing visual appearance of the area. Nevertheless, in this case if the bins associated with the flats were stored on the pavement, given the number of bins concentrated adjacent to the property, they would visually clutter this part of the area.
27. However, in my judgement there is sufficient space within the site to provide a suitable refuse storage facility together with sufficient parking for cycles and such provision could be secured by the imposition of a planning condition if I was minded to allow the appeal. The planning condition would mitigate the visual impact of the development with regard to the living conditions of nearby

residents and the ability of the area to assimilate the development in this respect.

28. The Council's Residential Amenity Supplementary Planning Document was adopted in 2008 (SPD). It is of some age and predates the original version of the Framework. Nevertheless, it provides guidance on how new residential development can protect the amenity of both new and existing residents. The SPD states that *'city centre flats are likely to be a compact development and rather than a private garden there could be good size balconies and/or shared space'*. It goes on to state that a development of one bedroom flats should provide a minimum of 1.5 sq. metres of amenity space per flat. In this case, it is not disputed that the external amenity space currently available at this site would not meet this guidance.
29. I acknowledge that in densely developed urban environments, such as surrounding the appeal site, it is not always practicable to provide the optimum amount of external amenity space. I also note that there is a nearby public open space, Thirlmere Street Gardens, which provides some mitigation for the shortfall. However, there would be very little external space for the occupiers of the flats for everyday activities such as drying washing or sitting outside. Moreover, the limited available external space would be further reduced by the provision of a suitable refuse facility together with sufficient cycle parking that could be required by the imposition of a planning condition, cited above.
30. Taking into account all of the above, none of the self-contained flats can reasonably be considered as providing a satisfactory living environment for existing and future occupiers. The limited external amenity space exacerbates/would exacerbate the unsatisfactory living environments of the existing and future occupiers of those flats. Overall, the unsatisfactory living environments of the flats' occupiers demonstrates that the area does not/would not have the ability to assimilate this development with regard to the existing and future occupiers of those flats.
31. The appellant has cited other examples of flat developments in the nearby area that are of similar internal sizes to these flats. However, no detail associated with those other developments is before me. Therefore, I cannot be certain that they are comparable to this development and in any case, I am required to determine the appeal on its individual merits.
32. The power to grant planning permission in an enforcement appeal is limited by section 177(1)(a) of the 1990 Act to granting planning permission *"in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates"*. I cannot therefore, grant planning permission for alternative schemes, except to the extent that they can be carried out by granting planning permission for the whole or part of the development enforced against.
33. The appellant has indicated that an alternative scheme of retaining 2 flats within the main building should be considered and has provided plans associated with that proposal. The alternative scheme to consider 2 flats instead of 3 flats within the main building could be treated as part of the development before me. Nevertheless, that scheme would not overcome the harm to the living conditions of the occupiers of Flat 1 as the internal size and layout of that flat would not be significantly altered.

34. Consequently, in my judgement the development results in/would result in significant harm to the living conditions of the existing and future occupiers of the self-contained flats with regards to internal size, layout, outlook, external amenity space and the ability to assimilate the development. It follows that the development conflicts/would conflict with saved LP Policies H07 and PS10.

Character and appearance

35. The area where the site is located includes a number of commercial uses. Nevertheless, the properties within the immediate vicinity of the site are predominantly traditional terraced housing. The adjacent streets are primarily straight arranged in a grid configuration creating a pattern of perimeter blocks. The use of red brick with painted stone surrounds for doors and windows and the repetition of forms and spaces provides a harmonious regularity. Even though, I noted that render has been applied to a few properties in the surrounding area the overriding character and appearance of the area provided by this regularity has not been substantially eroded.
36. During my site visit I noted that, towards most corners of the perimeter blocks in close proximity to the site, there would have been spaces created where the rear of the end property on one street backs on to the side of the end property on the adjoining street. However, in many of those instances the spaces have been infilled to varying degrees with later buildings/extensions.
37. The 2-storey main building has been extended in the past with a single storey, flat roof brick extension. The detached building to the rear of the property virtually fills the space between the rear of the brick extension and the adjacent property in Windermere Street. The infilling of the space to the rear of the property has not harmed the overall character and appearance of the area given my observations above in relation to infilling with later buildings/extensions. Nevertheless, in this case the detached building has a flat roof and its walls have been rendered and painted. The flat roof of the detached building is seen in the context of the flat roofed brick extension and as such that aspect of its design does not appear incongruous. The painted render highlights the detached building, and in this respect, it is incongruous compared to the harmonious regularity provided by the brickwork in the surrounding area.
38. Additional amendments to the development suggested by the appellant include the addition of a pitched roof and the use of brick cladding to the walls of the detached building. The alteration to the materials cladding the building could be treated as forming part of the development before me but the proposed alteration to the roof design would amount to a significant addition to the building. The roof alteration would require planning permission to be granted for development that is not, and is not part of, the development enforced against, and I do not have the power to deal with it. Furthermore, I have found that the flat roof design would not appear incongruous given the brick extension attached to the main building. The alteration to the materials would improve the visual appearance of the detached building and could be required by the imposition of a planning condition if I was minded to allow the appeal.
39. In conclusion, I consider that with the imposition of a planning condition the detached building would not harm the character and appearance of the area. As a result it would conform with CS Policy 3 of the Leicester City Core

Strategy which, amongst other things, seeks development which is appropriate to the local setting and context.

Other matters

40. I have considered the appellant's suggestion to cease the use of the detached building as a self-contained flat and use it for storage and/or other ancillary purposes associated with the residential and/or hot food takeaway use. A condition would need to be imposed to restrict the use of the detached building to a purpose ancillary to the uses of the main building. However, the deemed planning application in this respect is the operational development which has been carried out, and in this case, it is the erection of a detached building to provide one self-contained flat. Consequently, it would not be reasonable to impose such a condition which would have the effect of taking away the benefit of the deemed application in respect of the one self-contained flat. Furthermore, there would be conflict with paragraph 56 of the Framework which sets out the tests which need to be met if a planning condition is to be imposed.
41. Even if I am wrong and a condition could be reasonably imposed the retention of the detached building would mean that any external amenity space available to a dwelling within the main building would be extremely limited. I acknowledge that the external amenity space available without the detached building in place would still not meet the guidelines within the SPD for a terrace in this area and that the presence of Thirlmere Street Gardens provides some mitigation. There is also little evidence to indicate that prior to the detached building being erected that the space available was specifically used as an external amenity area associated with the residential use of the main building.
42. Nevertheless, without the detached building in place, it is highly likely, that there would be an appreciably greater area available for everyday activities such as drying washing or sitting outside for the future occupiers of a dwelling within the main building. In my judgement, even if its use could be reasonably restricted by a condition the retention of the detached building would harm the living conditions of future occupiers of a dwelling in the main building with regards to the provision of external amenity space.
43. I accept that the Council has not raised any objections to the development in relation to flooding, accessibility, highway safety and parking. However, the absence of harm in these respects is a neutral consideration and does not weigh for or against the development.
44. I have taken into consideration the Human Rights Act, 1998, which enshrines in UK law most of the fundamental rights and freedoms contained in the European Convention on Human Rights, and I recognise that dismissal of the appeal would interfere with the appellant's rights under Article 1 and with the occupiers' rights under Article 8 of the First Protocol. These are qualified rights, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. I conclude, given the harm identified above, that the action is in accordance with the law and pursues legitimate aims of protecting the environment in the public interest and is necessary and proportionate to the situation.

Planning balance and conclusion

45. I have found the detached building would not harm the character and appearance of the area with the imposition of a planning condition. However, for the reasons set out above the development results in/would result in significant harm to the living conditions of existing and future occupiers of the self-contained flats. As such, the development conflicts/would conflict with saved LP Policies H07 and PS10. Taking into account paragraph 219 of the Framework these policies are broadly consistent with section 12 of the Framework. As such, the conflict with them has substantial weight and I consider that the development is contrary to the development plan as a whole.
46. The evidence before me is that the Council cannot demonstrate a 5-year housing land supply. Although I have not been provided with any evidence about the extent of the shortfall in supply, the provisions of paragraph 11 (d)(ii) of the Framework are engaged. The development provides 3 additional self-contained units of housing. The appellant has stated that the development has been designed specifically for single adults who cannot afford to rent or buy larger dwellings. The Government's objective is to significantly boost the supply of homes. Nonetheless, the contribution of three additional self-contained units to the housing supply is relatively small and carries modest weight.
47. As stated above, none of the self-contained flats can reasonably be considered as providing a satisfactory living environment for existing and future occupiers. Therefore, the development does not create a place with a high standard of amenity for existing and future users. I attach significant weight to the harm that arises.
48. I conclude that the adverse impacts of the development significantly and demonstrably outweigh the benefits of providing three additional self-contained flats when assessed against the policies in the Framework taken as a whole. Subsequently, the presumption in favour of sustainable development contained in the Framework does not weigh in support of this case.
49. I consider that there are no material considerations, including the provisions of the Framework, of such weight to lead me to the conclusion that the proposal should be determined other than in accordance with the development plan.
50. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal on ground (a) and the application for deemed planning permission should fail.

The ground (f) appeal

51. An appeal on ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. The notice does not specify which purpose it seeks to achieve. The requirements in an enforcement notice may, and often will, serve both the purpose of remedying a breach of planning control and the purpose of remedying any injury to amenity.
52. It is evident, since the requirements of the notice do not specify that the hot food takeaway use has to cease, that the Council has chosen to "under-

enforce” under section 173(3) of the 1990 Act in relation to that element of the alleged breach. Nevertheless, in respect of the material change of use of parts of the main building to three self-contained flats and the construction of the detached building to provide one self-contained flat it is reasonable to consider that the purpose of the notice is to remedy the breach of planning control. This is because the requirements would have the effect of returning the land to its former condition prior to those parts of the breach taking place. As such, in this case the requirements serve both the purpose of remedying a breach of planning control and the purpose of remedying any injury to amenity.

53. The appellant has suggested a number of alternative schemes and variations to the requirements of the notice in regard to the design of the detached building, the use and retention of the detached building and reducing the number of self-contained flats in the main building to two. I have considered these alternative schemes as part of the ground (a) appeal. The design of the detached building could be mitigated by the imposition of a planning condition. Nonetheless, I have found that the self-contained flat within the detached building does not provide a satisfactory living environment for existing or future occupiers. In addition, even if a condition could reasonably restrict the use of the detached building, I have found that its retention would harm the living conditions of future occupiers of a dwelling in the main building with regards to the provision of external amenity space. I have also found that the reduction in the number of self-contained flats in the main building would not overcome the harm cited regarding the living conditions of the occupiers of Flat 1.
54. Consequently, the suggested alternative schemes and variations to the requirements would not remedy any injury to amenity which has been caused by the breach of planning control in relation to the material change of use of parts of the main building to three self-contained flats and the construction of the detached building to provide one self-contained flat. Moreover, the requirements of the notice are necessary and sufficient to remedy the breach by returning the land to its former condition prior to those parts of the breach taking place. Given that the corrected notice does no more than seek to achieve the purposes of sections 173(4)(a) and (b) of the 1990 Act, it is not excessive. Therefore, the appeal on ground (f) fails.

The ground (g) appeal

55. The ground of appeal is that the period of time for compliance with the notice falls short of what should reasonably be allowed.
56. The Council seeks compliance with all of the notice requirements within 16 weeks. The appellant has stated on his appeal form that the period for compliance should be 12 months to give the occupiers time to relocate and help with college and only when the occupiers have gone can the builders begin work but it is dependent on their schedule. Nonetheless, within his statement of case he considers that 6 months would be more appropriate to allow for the current tenants to secure alternative accommodation and move to the same, and to allow for the works to be undertaken subsequent to the same. He also notes that the current Covid-19 pandemic could have an impact with relation to tenants securing accommodation and contractors being available.
57. Moreover, I am aware that the Coronavirus Act 2020 protected most tenants in the private sector with measures requiring landlords, in most cases, to give extended notice of their intention to seek possession before starting court

action. However, from 1 October 2021, all notice periods returned to the pre-pandemic lengths. Moreover, the majority of measures relating to the pandemic have now been lifted. In addition, I consider that the removal of fixtures and fittings and the demolition would be relatively straightforward and would not require a protracted time period for compliance.

58. Nevertheless, six months would allow the appellant the time to submit to the Council a planning application for an alternative scheme. Consequently, a reasonable period for compliance would be 6 months, and I am varying the enforcement notice accordingly, prior to upholding it. The appeal under ground (g) succeeds to that extent.

Formal Decision

59. The appeal is allowed in part, on ground (g), and it is directed that the enforcement notice be corrected by:

- The deletion of the word '*three*' from requirement 5.1;

and varied by:

- The deletion of 16 weeks and the substitution of 6 months as the period for compliance.

Subject to this correction and variation the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

D. Boffin

INSPECTOR