
Appeal Decisions

Site visit made on 7 December 2021

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2022

Appeal A Ref: APP/G5750/C/19/3238994

Appeal B Ref: APP/G5750/C/19/3238995

Appeal C Ref: APP/G5750/C/19/3238996

Appeal D Ref: APP/G5750/C/19/3238997

Appeal E Ref: APP/G5750/C/19/3238998

Land at 264-266 Neville Road, Forest Gate, London E7 9QN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - Appeal A is made by Mr Adil Naeem, Appeal B is made by Miss Halima Ibrar, Appeal C is made by Mrs Raheela Sonia Raeem, Appeal D is made by Mrs Shaffia Naeem, Appeal E is made by Mr Shahid Naeem against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice, numbered 19/00035/ENFC, was issued on 30 August 2019.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use to short term lets.
 - The requirements of the notice are:
 1. Cease the use as short term lets.
 2. Remove all fixtures and fittings that solely facilitate the use as short term lets, including (but not limited to) all internal locks on bedroom doors and any additional mattresses and beds, and remove all resultant debris from the site.
 3. Remove the advertisement of the property for short term lets from all booking websites.
 - The period for compliance with the requirements is three months.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. 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 Act.
 - Appeals B, C, D and E are proceeding on the ground set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeals on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Decisions

1. Appeal A is dismissed, 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 as amended.
2. Appeals B, C, D and E are dismissed and the enforcement notice is upheld.

Preliminary Matters

3. Since the appeals were lodged, the London Plan 2021 (the London Plan) was adopted in March 2021 and the revised National Planning Policy Framework (NPPF) was adopted in July 2021. The relevant London Plan policies have been provided and supersede those cited in the reasons for issuing the notice. The parties have had the opportunity to comment on the implications for the appeals.
4. The appeal is travelling with appeals¹ against an enforcement notice alleging the construction of a rear extension and roof terrace at the same site. As some of the submitted evidence relates to both cases I have had regard to it in determining this appeal.
5. As part of the evidence, it is stated that the use as short term lets commenced in 2015. However, as a material change of use to short term lets would need to be carried on continuously for a period of 10 years in order to become immune from enforcement action, I have not dealt with this as a hidden ground (d) appeal.
6. The appeal site was originally two properties, that have been joined internally with a single rear garden.

Appeal A on ground (a) and the deemed planning application

7. The ground of appeal is that planning permission should be granted for the matters constituting the alleged breach of planning control, namely the use of the property for short term lets.
8. Having regard to the reasons for issuing the notice, the main issues are:
 - Whether the site is a suitable location for the use, having regard to the Borough's spatial strategy,
 - The effect on the supply of family dwellings in the Borough,
 - The effect on the living conditions of neighbouring occupiers with regard to noise and disturbance.

Suitable location

9. London Plan Policy E10C states that a sufficient supply and range of serviced accommodation in London should be maintained. Policy E10G states that serviced accommodation should be promoted in town centres, in accordance with development plan documents, where they are well connected by public transport, particularly to central London. Newham Local Plan 2018 (NLP) Policy SP6 sets out the approach to successful town centres, stating that visitor facilities will be encouraged to locate there. NLP Policy J1(2b) seeks to focus visitor attractions and facilities on specific sites, including Green Street town centre, with quality accommodation in town centres, amongst other specified locations, proportionate to their function and character.
10. The site is on a predominantly residential road close to the junction with Green Street, an identified Town Centre. Despite its proximity to the Town Centre

¹ APP/G5750/C/19/3238986, APP/G5750/C/19/3238987, APP/G5750/C/19/3238988, APP/G5750/C/19/3238989, APP/G5750/C/19/3238990

with its shops and amenities, it is outside the commercial area on a street that is much quieter and more residential in character. I recognise that it is within walking distance of a tube station, but the continuation of the use in this location undermines the strategic spatial strategy established in the development plan to focus visitor facilities on Town Centres.

11. The site is therefore not a suitable location for the use, having regard to the spatial strategy. It is thus in conflict with London Plan Policies E10, SD6 and NLP Policies SP6 and J1, insofar as they seek to focus tourist and visitor accommodation in town centres. It is also in conflict with the NPPF.

Family dwellings

12. London Plan Policy H1 sets out the approach to increasing housing supply across the London Boroughs. NLP Policy H1 states that a significant increase in family housing is required to replace that lost to conversion. NLP Policy H4 seeks to protect all housing, while part 1b states that the Council will specifically protect 3 bed and 4+ bed family housing. Part 2 of the policy sets out the circumstances in which the subdivision or conversion of 3+ bed housing may be appropriate.
13. The justification to the policy sets out that there has been a high level of conversion of family housing to other uses. There is concern that this can result in negative changes to the character of neighbourhoods, especially where properties lack quality or are poorly maintained, with increased levels of transience, parking pressure and refuse generation, with associated impact on the environment and amenity. In order to meet housing requirements, the protection of the existing housing stock is necessary, as well as the provision of new family housing.
14. The development has resulted in the loss of two family houses. I have seen no evidence that the circumstances set out in part 2a of NLP Policy H4 apply. The development is thus harmful to the supply of family housing in the Borough, and in conflict with London Plan Policy H1 and NLP Policies H1 and H4, insofar as they seek to ensure an adequate supply of family housing. It also conflicts with the NPPF.

Living Conditions

15. Neville Road is densely developed with two and three storey terraced housing. The area has a relatively quiet character, which contrasts with the vibrant commercial character of nearby Green Street with its shops, businesses and traffic. The use as a 16 bedroom property for short term lets, with guests staying for a maximum of 2-3 days, is likely to give rise to a greater level of activity compared with the use as two family dwellings.
16. Even though the neighbour at No 262 states that the guest house use does not cause any noise or disturbance, the nature of the use as short term lettings has the potential to cause disruption to neighbouring residents through comings and goings, which could be late in the evening or early in the morning and associated noise, whether from the movement of luggage or from vehicles and guests. Notwithstanding the location of the site within walking distance of a tube station, it cannot be ruled out that visitors with luggage may arrive or leave by taxi. Due to the number of rooms and the level of associated activity

with short term lets, which are located in close proximity to residential properties, the use is likely to result in an increased level of noise which could cause disturbance to neighbouring occupiers.

17. I therefore conclude that the use is likely to be harmful to the living conditions of neighbouring occupiers with regard to noise and disturbance. It is therefore in conflict with London Plan Policies D13 and D14 and NLP Policy SP8, insofar as they seek to ensure development achieves good neighbourliness and avoids unacceptable exposure to noise and disturbance. It is also contrary to the NPPF.

Conclusion in relation to the ground (a) appeal

18. I note that the appellant states that permission should be granted because the short term lets have been in the service of the community as accommodation for people in need and homeless people. However, no firm evidence has been provided to demonstrate that this has been a significant element of the business, and I note the Council's evidence states that there were no permanent occupants on site when officers visited in August 2019. The extract from 'Booking.com' website indicates that the rooms are let to the public for short stay accommodation.
19. The appellant states that sustainable transport information is provided to guests which promotes cycling, and it makes suitable provision for waste management, and therefore complies with the development plan. However, compliance with the requirements of other policies is a neutral consideration that does not weigh in favour of the development.
20. The development results in the unacceptable loss of two single family dwelling houses and provides unacceptable living conditions for nearby occupiers with regards to noise and disturbance in an unsuitable location. The development is contrary to the development plan and the NPPF and I do not find that the considerations put forward by the appellant outweigh the harm.
21. If the short term lets provide accommodation for people who would otherwise be homeless, it is possible that dismissal of the appeal will involve some interference with the occupiers' rights to respect for private and family life under Article 8 of the European Convention on Human Rights. However, this is a qualified right. The interference will be the minimum necessary and a proportionate approach to the legitimate aims of ensuring that visitor accommodation is suitably located in relation to the Council's spatial strategy, protecting the supply of family housing, and ensuring satisfactory living conditions.
22. The appeal on ground (a) must therefore fail and the application for permission deemed to have been made will be refused.

The appeals on ground (g)

23. The ground of appeal is that the period specified in the notice for compliance with the requirements falls short of what should reasonably be allowed. The period for compliance is three months. The appellant seeks a period of six months, as the enforcement action will affect a building. I am also mindful that the appellant has advised that some of the occupiers may otherwise be homeless. Nonetheless, I consider that three months is a reasonable period for

the use to cease and for any occupiers to look for alternative accommodation.
The appeals on ground (g) therefore fail.

N Thomas

INSPECTOR