



Appeal Decisions

Hearing Held on 16 February 2022

Site visit made on 16 February 2022

by Diane Lewis BA(Hons) MCD MA LL M MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2022

Appeals Refs: APP/W5780/C/20/3265763, APP/W5780/C/20/3265764 Land at 1A Granville Road, Ilford IG1 4JY

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Peter Williams and Ms Isabella Nielsen-Williams against an enforcement notice issued by the Council of the London Borough of Redbridge.
 - The enforcement notice, numbered E0245/20, was issued on 19 November 2020.
 - The breach of planning control as alleged in the notice is Without planning permission, the erection of a building.
 - The requirements of the notice are:
 - i. Remove the building in its entirety.
 - ii. Clear all debris from above requirement.
 - The period for compliance with the requirements is 3 months.
 - The appeal by Mr Peter Williams (Appeal A) is proceeding on the grounds (a), (b), (f) and (g) set out in section 174(2) 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 as amended.
 - The appeal by Ms Isabella Nielsen-Williams (Appeal B) is proceeding on the grounds (b), (f) and (g) set out in section 174(2) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal 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. It is directed that the enforcement notice be:
 - corrected in paragraph 5 by deletion of the wording of requirements (i) and (ii) and substitution of the wording (i) "Remove the unauthorised building in its entirety." (ii) "Clear all resultant debris from carrying out the above requirement."
 - varied in paragraph 6 by the substitution of 6 months as the period for compliance.
2. Subject to the correction and variation the appeals are dismissed and the enforcement notice is upheld. In respect of Appeal Ref: APP/W5780/C/20/3265763 planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

REASONS

Grounds of appeal

3. The appeals were made on all grounds. At the statement of case stage in the proceedings the appellants confirmed the appeals on grounds (c), (d) and (e) were “abandoned” and that Appeal A was being pursued on grounds (a), (b), (f) and (g) only. The same grounds were proposed for Appeal B, however the ground (a) has lapsed because the prescribed fee was not paid within the specified period.
4. In view of the case presented to inform the discussion at the hearing, I agreed with the main parties that grounds (c), (d) and (e) would not be considered. However, in comments submitted later on behalf of the appellants there is a suggestion of a ground (c) case, with the claim that a breach of planning control has not occurred. I will deal with this matter as part of ground (b).

Appeal site

5. The site is a parcel of land between the properties at 47 Wellesley Road and 1 Granville Road. A single storey building has existed on the rear part of the site for many years, a near neighbour explaining that in the 1890s it was a stable block and more recently in the 1990s the building was used for storage by a roofing business.
6. The appellant acquired the site in 2003, since when he made a number of planning applications. Most were unsuccessful¹. Planning permission was granted in 2005 for a live work unit on ground floor and basement level (ref 0864/05). On 13 October 2010 permission was granted for a change of use from an outbuilding to a live work unit and a single storey extension to front of existing outbuilding fronting onto Granville Road (ref 2660/09)². The plans of the existing building submitted with the application annotated the ground floor as an outhouse, which corresponded with the existing use stated on the application form.
7. In a letter dated 11 October 2010 to the local planning authority (LPA) the appellant set out a list of internal and external works undertaken since the 2005 permission. The external works included the installation of new roof and roof windows, two patio windows, a toilet mains connection, an electricity supply and the provision of a footing for the 2005 permission. The internal works included the replacement of old floors and the installation of a new ceiling and wall, a kitchen and shower room and electric wiring.
8. Before and after photographs were submitted with that letter. The two photographs of the building labelled ‘before’ indicated that the front wall was of timber with sets of garage doors, the internal side and rear walls were of timber above a brick base. The pitched roof was covered in slate. The interior was an open space with what appeared to be a concrete floor. The two photographs labelled ‘after’ show the front of the building with the two sets of sliding patio doors opening out onto the front yard and the inside of the building set out as a studio with minimal fixtures and fittings.

¹ Statement of common ground paragraph 5.1

² Referred to as the 2010 permission in this Decision

9. On 18 August 2011 the LPA approved a non-material amendment to the 2010 permission (ref 1380/11). The decision notice describes the approved amendment as "To form unconnected roofs between existing building and extension and to reorientate the roof of the extension to the same orientation as the existing building. Two roof lights to rear slope of extension." The approved plans (DWG 101/PW, DWG 102/PW) state that the footprint, roof pitch and height would be as per the permission.
10. Subsequently, further proposed schemes for a live work unit and residential units were unsuccessful. My attention was drawn to an appeal decision dated 2 June 2017³. The proposed development was described as demolition of existing single storey live/work building and erection of a three storey building, including 1 no. live/work unit with basement and 2 no. self-contained residential units. The appeal was dismissed.

Appeals on ground (b)

11. The nub of the appellants' case is that a building has not been erected without planning permission but rather an extension has been erected that is not entirely in accordance with planning condition 2 of the 2010 permission.
12. The heading of the enforcement notice confirms that it is directed at operational development. The notice was issued within paragraph (a) of section 171A(1) of the 1990 Act⁴, the carrying out of development without planning permission. In effect the appellants' case is that the notice should have been issued under paragraph (b) of section 171A(1), failing to comply with any condition or limitation subject to which planning permission has been granted.
13. Two matters for consideration arise from the appellants' main argument: is the 2010 permission extant and do the building operations form part of the development granted permission? The appellants' submission that there is no breach because the building is under construction has little merit, bearing in mind the meaning of building in section 336(1), as I explain below.

2010 permission

14. Condition 1 of the 2010 permission required that the development should be begun no later than three years from the permission date of 13 October 2010. The development consists of the carrying out of operations and a change in use. For the purposes of the 1990 Act development is taken to be begun on the earliest date any material operation comprised in the development begins to be carried out or the new use is instituted (section 56).
15. In the appeal decision dated 2 June 2017⁵ the Inspector stated "whilst I note that there is an extant consent for a front extension at the appeal property ...". The reference was to the 2010 permission. Further mention is made in the decision to realisation of benefits from implementation of the 2010 permission⁶. Prior to the hearing this decision was the sole basis for the appellants' case that the permission had commenced. Following the discussion at the hearing the appellants confirmed that they relied on (i) the 2017 appeal decision, and (ii)

³ Appeal ref APP/W5780/W/16/3160495, land at The Studio, 1a Granville Road, Ilford.

⁴ In this Decision references are to sections of the Town and Country Planning Act 1990 unless otherwise stated.

⁵ Paragraph 10 of decision ref APP/W5780/W/16/3160495

⁶ Op cit paragraphs 26 and 27

an email from an officer at the Council – the final warning letter dated 11 August 2020 prior to enforcement action being taken.

16. There is no indication of the nature of the evidence before the Inspector in 2017 or to what degree the matter was explored at that time. The 2010 scheme was not the focus of the decision and nothing fundamental rested on whether or not the permission was alive. In my view the statements in the appeal decision are not conclusive evidence.
17. The final warning letter from the LPA stated that the development was not in accordance with the approved plans found in Planning Permission reference 2660/19⁷. To remediate the breach the LPA required the development to be modified in accordance with those approved plans. There was no positive statement by the LPA that the 2010 permission was extant. This observation also applies to the email from the LPA dated 19 August 2020. The Council's formal position in these appeals is that the 2010 permission is no longer extant.
18. The email correspondence in August 2020 included an email from the appellant who stated that he was following the planning permission for a live work unit and the amendment permission. However, this confirmation was not accompanied by any supporting evidence. At the hearing the appellant appeared to have very little knowledge of the approved non-material amendment and has relied on the Council website to produce the relevant information and approved plans.
19. During the course of the hearing discussion the appellant stated he began living at No 1A in 2013/2014, which he further referenced to making a complaint about noise to the Council in April 2013. In the absence of additional evidence or a greater degree of precision, this is insufficient to show a material change in use to a live work unit began before the critical date of 13 October 2013. There is also ambiguity in that the letter dated 11 October 2010 raises the possibility that any residential use may have been in connection with the 2005 permission.
20. As to additional documents and information provided by the appellant, a communication dated 5 November 2012 was addressed Studio 1A Granville Road but there is no reference or positive evidence the building was a dwelling. A photograph of the interior showed a work studio. Regarding building works, two sets of photographs were submitted, although with minimal explanation. It is not clear that the photos of a trench, when read with the letter dated 11 October 2010, relate to the 2005 or 2010 permission or other development. The second set dated 11 April 2011 and April 2012 only show increased depths to foundations. Therefore, whilst the digging of a trench can demonstrate commencement of development, in this case the photographs, unsubstantiated by additional evidence, are insufficient to show on the balance of probability that the trench(s) was to contain the foundations of the building permitted. The information titled 'building control visits and evidence of satisfactory work' appears to relate to visits in 2017 and 2018 regarding floor foundations. In the absence of any commentary to confirm otherwise, the visits were not within the relevant timescale for the 2010 permission.

⁷ The appellant agreed at the hearing this was an error and should read 2660/09

21. In conclusion and on the balance of probability the appellants' evidence falls short of demonstrating the 2010 permission was begun within the three year time period.

Building operations

22. I will compare first the 'as built' scheme, as seen on the appeal visit, to the development granted permission in 2010. Similarities and the degree of compliance with the approved plans as well as material differences are relevant, together with the extent to which the works are substantially usable in implementing the planning permission.
23. The comparison with the 2010 permission was the one initially made by the appellants and the differences identified were described as marginal. The appellant was unable to provide either plans that could be scaled or accurate dimensions for the original building, the approved building or the new building. I note that there are annotated dimensions of the existing floor plan in the set of plans submitted with the 2009 application.
24. In the existing physical structure on the rear part of the site patio doors infill the openings in the front wall, with the timber clad element of the wall visible at the southern end. The appearance reflects the existing elevation shown on plan 004 submitted with the 2009 application and the works described by the appellant in the letter of 11 October 2010. Plan 006 of the proposed front elevation shows a new door to gain access into the extension and it is unclear whether the patio doors would be replaced or not. Inside the building is a bed space, a larger central living area and a kitchen at the northern end. The layout is not exactly the same as shown on proposed plan 006. A door leads into a small projection where there is a toilet, shower and basin, also shown on a plan 012 of the existing. A skylight at each end of the roof is visible from within the building, which are shown on the proposed roof elevation plan 005. In summary, the building retains elements existing before 2010, not all alterations have been carried out and minor changes to the approved scheme are evident.
25. In terms of the footprint, the new build covers a sizeable proportion of the area in front of the existing building with a space remaining open on the northern side, as would occur with the approved footprint. However, near the residential entrance there are deviations from the approved plans. Instead of a small projection retaining a gap to the side boundary and the main door opening directly into the existing building the new build wraps round and encloses the former projection. As a result the new build is on and is not inset from the boundary with 1 Granville Road and the size of the open yard is reduced. Elsewhere on the site, on the boundary with 47 Wellesley Road, the building line leaves only a very slight gap whereas the approved plan indicates a slightly wider gap. The alterations to the footprint are not substantial when considered individually but the combination of these changes results in a greater site coverage on an already constrained site. This difference assumes greater importance when account is taken of the above ground built elements.
26. The site visit indicated that the 'original' building at the rear of the site is in the process of being incorporated and enclosed within a larger building envelope. Access to the older building is gained from the front yard via an unfinished doorway opening and a narrow gap between the projection and new outer wall. To the front of the original building newly built walls enclose the space and at a

- higher level work has commenced on a roof or floor structure with steelwork visible. The new build appeared to extend over the older building.
27. From the outside, as seen from the adjacent property number 1, a wall of breeze blocks extends upwards from the brickwork of the rear wall to the older building and steel work projects out from the building envelope. An outline of the side gable end of the original building, distinguished by the old brickwork, is evident as part of the side wall of the building on the common boundary. However, the side wall of brick and block work now extends significantly higher above and to the sides of the outline of the old building. A string course detail within the new build is at approximately the same height as the ridge line of the original building.
28. The front wall of the new build is up to a first floor level and as partially constructed it is of varying and uneven height. Above one of the ground floor level openings is a box shutter, with the name of an art gallery. The side wall facing the garden to 47 Wellesley Road is also partly constructed and a narrow side window opening is inserted towards the front. This new window was said to assist with improving internal light, whereas the approved plans have a different set of openings to the studio space extension, including a double sized opening onto the internal yard.
29. The new building that is in the course of construction is substantially different to the development approved under the 2010 permission. The approved scheme consists of two clearly distinguishable elements – the single storey, shallow pitched, original building extending across the rear of the site and a slightly higher extension across part of the frontage. However, the existing construction is higher and wraps round and extends above the original building. The probability is that much of the new work, including the roof structure and parts of the walls to the sides and rear, would not be useable in or be required to build out the 2010 permission. An extension is not clearly apparent.
30. On this analysis, as a matter of fact and degree I agree with the LPA that the building operations amount to the erection of a new building. It follows that I disagree with the appellants that the works amount to an extension that may be considered as an amendment to the 2010 permission.
31. This conclusion is supported by the submitted plans of a proposed new building on plan PA-01, that would appear to completely enclose the original building, have a markedly higher eaves level and a very different roof plan and profile. I also note that the proposed scheme on plan PA-01 shows a signage area and uninterrupted brickwork above the ground floor windows up to the eaves line. By contrast the front elevation as built indicates window openings at first floor level. This appearance is consistent with the stated intention on behalf of the appellant in January 2021 to create the live/work unit already agreed with a living area on the first floor with 3 bedrooms to provide a family home⁸.
32. After the hearing discussion, the appellants addressed the development as amended. The point was made that the height of the new built element would be the same as allowed in 2010, the only change being the direction of the ridge line. Similarities and differences were itemised between the proposal and the plan approved in 2011.

⁸ Appellants Pre-Hearing Comments 17 June 2021 Appendix B email dated 27.01.2021

33. The key elements of the amended scheme are identified in the decision notice and relate to the roof form and the addition of two roof lights to the proposed extension. The basic scheme still consists of two clearly distinguishable elements – the single storey, shallow pitched, original building extending across the rear of the site and a slightly higher extension across part of the frontage. The plans also show amendments to the openings in the front elevation. Two different proposals are illustrated, which are not itemised in the application⁹ or the decision notice. Accordingly, they do not form part of the approved amended scheme.
34. In my view the approved non-material amendment makes little difference to the comparison between the development that has permission and the as-built structure. As set out above, the change to the footprint is not substantial but is significant. The height of the new build varies and at the present time the structure has no roof. The building form is enveloping the original building. The significance of any similarities in ground floor openings (which have not been approved) and in the use of materials are not determining factors. As a matter of fact and degree I consider that the building operations do not fall within the scope of the 2010 permission.
35. The 2010 permission was for a small live work unit with the approved floor plans showing a small open plan single living unit with a single doorway into the open plan work area to the front. This layout was not subject to amendment. The existing layout of the living unit is similar, in so far as the use of space provides for a bedspace at one end and a kitchen and bathroom at the other end of the unit, with living space occupying the central area. Access arrangements and treatment of the front wall/elevation of the living unit show differences in opening type, fenestration and doorways.
36. As I have explained, the distinction between a living unit at the rear and an extension studio to the front is no longer clearly identifiable. The planning statement (dated 18 November 2009) said the site would be used as a non-family unit where artistic work would operate on completion of the build. Planning conditions 5 and 6 attached to the 2010 permission would control and restrict the use and occupation of the premises. The stated intention now is to create a live/work space where the family can live together as well as produce art and encourage artists in the local area to develop their talents. This is a significant departure from the use proposed originally and a reasonable expectation is that the form of the new building responds to these stated purposes.

Description of allegation

37. A building for the purposes of the 1990 Act includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building (s336(1)). That being so, the word 'building' is able to apply to the structure as built on the ground when the notice was issued, even though building works were not complete.
38. The Council has made clear that the notice is directed at the new building work that has taken place prior to the issue of the notice and the new building that has been erected and is physically present on the Land. The Council is not able to issue a notice in respect of prospective development. The description

⁹ Section 8 of the application form Non-material amendments sought

adequately and correctly describes the matters constituting the breach of planning control. The wording of the allegation does not require correction.

Conclusions

39. The development does not fall within the scope of non-compliance with condition 2 of the 2010 permission. The enforcement notice is correctly directed at a breach of planning control within paragraph (a) of section 171A(1). No planning permission exists for the new structure on site. The appeals on ground (b) do not succeed.

Appeal on ground (a)/ deemed planning application

Background

40. The appellant at the statement of case stage submitted plan PA-01 comprising the as-built to date plans and a proposal to complete the building. The proposal is described as a single storey live work unit; a dwelling house to the rear, with an artists' studio to the street elevation¹⁰. As explained in the ground (b) appeals the appellant maintained that the notice should be against non-compliance with condition 2 of the 2010 permission. Therefore, in the appellant's opinion, if the notice was corrected a new condition could be imposed requiring the development to be carried out in accordance with plan PA-01. In the alternative, following discussion at the hearing, the appellant submitted that permission could be granted for the proposed scheme shown on plan PA-01. To support this approach the appellant relied on two appeal decisions¹¹ and section 177(3). No reference was made to case law and no analysis was provided on the extent of the works required to complete the building.
41. In my view the circumstances described in the appeal decisions cited are not directly comparable to the current case. In the Newholme Estate appeal the building was complete when the appeal was determined. In the Upper Eddington case the enforcement appeal was linked to three section 78 appeals on the same site. The Inspector found that whilst only partially constructed the dwellings were at an advanced stage where the impact on living conditions of the occupants of nearby properties could be assessed. The same cannot be said here. The appeal decisions do not provide an approach that I must follow.

The development

42. The description of the development for which planning permission may be granted through this ground of appeal is derived directly from the matters stated in the notice as constituting the breach of planning control (s174(2)(a)). Permission may be granted in relation to the whole or any part of the matters stated in the notice as constituting the breach of planning control or in relation to the whole or any part of the land to which the notice relates (s177(1)(a)).
43. I have decided that the notice was issued correctly under paragraph (a) of section 171A(1). It follows that the development for consideration is the erection of a building.

¹⁰ Appellant's statement of case paragraph 5.6

¹¹ Refs APP/X1335/C/19/3240887, APP/W0340/C/15/3139494

Main Issue and Policy

44. The main issue is whether the development constitutes good design, where the effects on the character and appearance of the street, and the living conditions of adjoining occupiers, are of particular relevance. The building is partially constructed and so the focus is on whether it provides an acceptable basis for completing the building. The proposal illustrated on plan PA-01 is a consideration to inform the assessment.
45. The Development Plan comprises the London Plan published in March 2021 and the Redbridge Local Plan 2015-2030 (the Local Plan).
46. The National Planning Policy Framework (the Framework) is a material consideration. Policies on achieving sustainable development and well-designed new places are important in informing the assessment of the main issue.
47. Integral to my decision-making will be exercising duties under the Human Rights Act 1998. Under the Equality Act 2010 I will have due regard to the public sector equality duty.
48. In the statement of common ground the appellant relied on the Housing Delivery Test (HDT) for 2020 whereby the presumption in favour of development, the tilted balance, would apply. The Council did not consider that the HDT applies in relation to the construction.
49. The 2021 Housing Delivery Test (HDT) results published by the Department for Levelling Up, Housing and Communities (DLUHC) and applicable from 15 January 2022, give a figure of 135% for the LB of Redbridge (compared to a figure of 59% in 2020). On that basis the presumption would not apply. There is a discrepancy between the DLUHC figure and that published by the Greater London Authority (GLA) which gives a figure of 68% for 2021 (presumption applies). The appellant and the Council were requested for their comments on the matter but none were received.
50. For the presumption to apply the development has to involve the provision of housing, and the GLA figure as a material consideration must outweigh the national HDT result. The likelihood is that the building enforced against would involve the provision of housing of some kind. My understanding is that the GLA assist with the data used by the DLUHC in the HDT table and that the GLA identified an error in the information provided. Strict timescales did not allow any amendments to the HDT results published by the DLUHC. These factors suggest that the presumption in favour of development should be applied.

Reasons: main issue

51. The appeal site is located just to the north of Ilford town centre, identified as an investment and growth area by Policies LP1 and LP1A in the Local Plan. The land use pattern near the site is predominantly residential, although there are also various uses that support the local community and economy. The adjoining residential streets are characterised by frontage development of two storey houses with gardens to the front, consistent building lines, regularity in scale and the incorporation of design detail to add visual interest. In Granville Road modern development has taken place near the site and there is more variety in the appearance of the street.

52. The site is a small plot with a frontage to Granville Road. The remaining three boundaries adjoin residential properties. The long established building occupied the rear part of the land and was single storey. The site functioned as a secondary feature between the principal houses fronting Granville Road and Wellesley Road, providing a visual break and some spaciousness to the street scene. The proposal granted permission in 2010 retained an essentially single storey form with little change along the northern boundary with 1 Granville Road. The original rear building would be distinguishable from the front extension, helping to limit the mass and size of building elements. The same principles would be reflected in the non-material amendment.
53. The as-built structure has progressed sufficiently far to set the footprint and site coverage, with an indication of a minimum height and roof structure/span. The existing brickwork and blockwork suggest a significantly greater building mass than was approved. The front elevation of the new build, particularly the increased height and forward projection immediately adjacent to number 1, would disrupt the strong and consistent characteristic building line of the dwellings on this side of the road that contributes to the identity of the street.
54. The site visit highlighted the increased concentration of built form on the small site, such that there appeared very little if any capacity to ensure the building envelope and essential services could be contained entirely within the site boundaries. This was evident on the rear and north side elevations. The emerging building envelope appeared overly cramped with very little external amenity space. Whilst a small courtyard was suitable to serve the approved live/work unit a larger building may be expected to merit more external space.
55. Principal openings to date have been formed on the front elevation, which would provide visual interest to the street and safeguard the privacy of adjoining occupiers. The negative effect would be the exposed expanses of brickwork to the higher side elevations on the site boundaries, which are emerging in the structure. Such building elements would not enhance the street. In addition, even as currently built, an undue sense of enclosure exists for the occupiers of number 1, which could be expected to be exacerbated as building progresses. The overbearing element, sited to the south, would also overshadow the neighbouring dwelling to the north.
56. The relationship to the dwellings at 45 and 47 Wellesley Road would not be as harmful to amenity, mainly because of the position of the site relative to the dwellings and the resultant greater separation distance to habitable space and most frequently used external areas. Even so, the very significant increase in the height of walls with the additional roof structure would be visually dominant, reducing the amenity of the rear gardens.
57. In coming to these conclusions, I have taken into account the observations by the appellant and the Inspector in 2017 on the surrounding built context. Development on the appeal site requires a design that takes account of the specific site characteristics and in my view the as-built structure fails adequately to do so.
58. The notice does not state the purposes for which the building may be used, which is understandable in view of the uncertainty about the intended final building form. The appellant indicated that the use would be as a live/work unit and proposed a planning condition to that effect. In discussion at the hearing and in representations the appellant clearly was seeking to provide family living

accommodation. The 'work' element was more broadly described as a studio space where people could come to work and community workshops and engagement would take place. As seen on site, the roller shutter opening and signage above one of the ground floor openings suggests a wider function than a work unit only for the residential occupier.

59. In its present state it is not possible to come to conclusions as to whether the building is suited to the intended use in terms of space standards and living conditions for future occupiers, access and achievement of inclusive design, requirements for storage and waste disposal and incorporation of aspects of sustainable design and construction. Even though the appellant has cited development plan policies relevant to such matters, including Policy D6 of the London Plan and Local Plan Policies LP14, LP29 and LP32, no specific information is provided on internal floor areas and size of built-in storage. A winter garden in the north west corner is identified but there was no indication on site that this amenity space was incorporated in the design and layout of the current development.

Reasons: other matters

60. The London Plan through Policies GG2 and Policy D3 aims to secure making the best use of land by a design led approach. The site, on the edge of Ilford town centre, is well located to public transport and a range of shops, services, jobs and amenities. However, a design led approach to determine the optimum development capacity of the site is not evident in the building on the land.
61. Increasing housing supply is an objective of development plan and national planning policy. Increasing the rate of housing delivery from small sites is a strategic priority identified by the London Plan. Policy H2 supports well-designed new homes on small sites and as explained above I have not found the development to demonstrate good design.
62. The London Plan in Policy E2 supports the provision of a range of business spaces and encourages small enterprises and start-up businesses. The appellants have stated the development would enable them to develop their artistic talents, provide a cultural resource for the local community. Whilst these aspirations have merit, the building space should be fit for purpose, a requirement which has not been demonstrated in the development.
63. These considerations provide limited weight in support of the development.
64. The scheme in the 2010 permission (with or without the non-material amendment) would retain a distinction between the converted host building at the rear and the forward extension. The scheme demonstrates that more efficient use may be made of the site in a way that respects its surroundings. This consideration does not weigh significantly in support of the development.

Conclusion

65. The development is not good design because of the harm to the character and appearance of the street scene and the living conditions of adjoining occupiers. The building fails to comply with Policy LP26 of the Local Plan and is not supported by Policies D4, D6, GG2, D3, H2 and E2 of the London Plan. The development conflicts with the development plan as a whole.

66. Applying the tilted balance, the adverse impacts of approving the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The development does not benefit from the presumption in favour of sustainable development.
67. The direction of the development plan is that the erection of the building is not acceptable and the Framework does not indicate otherwise.

Obvious alternatives

68. The obvious alternative put forward by the appellant is the scheme illustrated by plan PA-01. The appellant submitted that the development is close to practical completion for all practical purposes.
69. The scheme would be a larger structure than the building currently on site. The four external walls would be higher with a higher eaves line. The span of the roof structure would be much greater than the original building and at a higher level, extending from the front to rear wall with a central ridge when viewed from the south. A lot of new building work would be required to construct the building shown on plan, including extension to the external envelope (walls and roof structure), the cladding of the roof, the insertion of doors and windows, internal changes and additions and other works. The new works would be so extensive that the development shown on plan PA-01 does not fall within the scope of the deemed planning application. Furthermore, even if it did, the larger building would not overcome the harm identified in terms of respecting the streetscene and the amenity of neighbouring occupiers.
70. I have also considered an alternative utilising part of the building erected to date. A reduction in building form would be involved but in all probability a lot of new building work would be required to achieve substantial completion. The appearance of any final building form is very uncertain, such as in respect of building height and roof structure and it is unclear how much of the new fabric would form part of the development. In such circumstances the ability to make informed conclusions of the potential effects and planning merits is severely hindered.
71. I concluded in ground (b) that the new building is a building in its own right and is not able to be considered as an amendment to the 2010 permission. That being so, the 2010 scheme is not able to be considered as part of the development and does not provide an alternative proposal that could be granted permission under the ground (a) appeal.
72. In conclusion there are no acceptable obvious alternatives that could be approved under the ground (a) appeal.

Human Rights considerations

73. Lack of success on the ground (a) appeal and the consequent need to comply with the enforcement notice would result in an interference with the appellants' right to respect for private and family life and the home and the peaceful enjoyment of their possessions. The interference would be sufficiently serious as to engage the operation of Article 8 and Article 1 of the First Protocol, enshrined into UK law by the Human Rights Act 1998. These are qualified rights which require a balance between the rights of the individual and the needs of the wider community. Such an interference would be in accordance with the law, subject to a lawful decision. The interference would be with a view to the

regulation of land use through the use of development control measures that are recognised as an important function of Government. The interference must be proportionate to the legitimate public interest objective to be achieved.

74. The appellants indicated that the appeal process, the prospect of the demolition of the building, the potential loss of the home and place to work and financial impact are very stressful. The difficulties encountered during the project were outlined. An aim of the development is to considerably improve health, home and family life by providing additional accommodation that would enable the family to live together regularly and pursue their livelihoods. I am also very aware that a primary consideration is the best interests of the appellant's son (the second appellant's younger brother), who is said to have serious underlying health problems.
75. The public interest centres on securing a well-designed and sustainable building that functions well not just for the short term but over the lifetime of the development. A high standard of amenity and safety for the occupiers, future users and neighbours are important elements of good design.
76. The Council confirmed at the hearing that conversion of the original building to a dwelling forms no part of the matters being enforced against. That being so the lack of success through this appeal would not result in the appellant losing his home. Even so, the inability to continue with the project as the appellants' hoped would be very disruptive to their home and family life and aspirations. However, bearing in mind the permissions granted in the past, the probability is the scheme currently envisaged would not be the only solution and as set out in the Framework design quality should be considered throughout the evolution and assessment of individual proposals. Weighing up and balancing the rights of individuals concerned and the rights of the community, my conclusion is that refusal of planning permission is necessary and proportionate. The appeal does not succeed on ground (a).

Appeals on ground (f)

77. The issue is whether the requirements of the notice are excessive. Any variations to the requirements should not cause injustice. Obvious alternatives have been addressed in the ground (a) appeal and need no further consideration.
78. The purpose of the notice is to remedy the breach of planning control and to restore the land to its condition before the breach of planning control took place. It is not open to the appellants to argue that the notice should have a different purpose. I have concluded that the allegation is correctly worded and should not be corrected to a breach of condition. Step (i) requires no more than the removal of the building as referred to in the breach. As noted above, the Council confirmed that the notice does not affect the pre-existing building on the site. Step (ii) requires the site to be cleared of the resultant debris, which is a standard requirement in such circumstances.
79. The appellants proposed that in the event I found the 2010 permission was not extant requirement 1 should be replaced by two steps
- i. Remove all unauthorised development and return the site to the original building.
 - ii. Carry out any necessary works to return the building to its original state.

80. The Council's suggested amendment related only to step (i) and was similar to the appellants' wording.
81. Requirements have to be specified and should be read in the context of the allegation. I consider proposed step (i) is less precise, inadequately reflects the wording of the allegation and would be more onerous. Proposed step (ii) also is imprecise and more onerous. The amendments proposed would cause injustice to the appellants and I do not intend to vary the wording as suggested. Minor clarification to each step is in order, as set out in the Decisions.
82. The requirements are not excessive and the appeals on ground (f) fail.

Appeals on ground (g)

83. The issue is whether a compliance period of 3 months is reasonable and proportionate, having regard to the human rights of the appellants and their family.
84. The appellant is seeking a period of 9 to 12 months because of financial constraints, the need to find alternative accommodation and to enable organisation of demolition works. The Council did not accept the need to extend the compliance period.
85. The context is provided by the Framework and Planning Practice Guidance, which state that effective enforcement is important to maintain public confidence in the planning system and to tackle breaches of planning control which would otherwise have unacceptable impact on the amenity of the area.
86. The period needs to take account of what the recipients will have to do, in practice, to carry out the steps. No undue physical constraints have been identified, rather the emphasis is on the social and economic implications. A certain amount of pre-planning would be necessary and the appellant probably would have to move to temporary living accommodation during the actual demolition for safety reasons. There would be benefits for all from ensuring the demolition works are carried out expeditiously.
87. The appellants may also wish to discuss with the local planning authority alternative proposals and submit a planning application for a live/work unit. In the event a planning permission is granted, the notice would cease to have effect so far as inconsistent with that permission (s180(1)(b)).
88. Taking all these considerations into account, I will extend the compliance period to six months. The appeals on ground (g) succeed to that extent.

Conclusion

89. For the reasons given above the appeals should not succeed. The enforcement notice shall be upheld with a correction and variation. In Appeal A I shall refuse to grant planning permission on the deemed application. The interference with the appellants' human rights is proportionate and necessary and no violation of their rights would occur.

Diane Lewis

Inspector

APPEARANCES

FOR THE APPELLANTS:

Ben Norton LLB (Hons)	Norton Taylor Nunn Limited
Peter Williams	The Appellant
Isabella Nielsen-Williams	The Appellant
Suzanne Scott	Trustee, Punch Bag Art Gallery

FOR THE LOCAL PLANNING AUTHORITY:

Sharon Blaize	Enforcement and Technical Manager
Sager Perwez	Planning Enforcement Officer

INTERESTED PERSONS:

Harmander Singh	Resident
Mohamed Muthalif	Resident