



Appeal Decision

Site visit made on 26 February 2024

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th July 2024

Appeal Ref: APP/T5150/C/23/3315310

35 Rosemead Avenue, Wembley HA9 7EE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Gary Bloch of CITYNET LTD against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice was issued on 16 December 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the erection a single storey rear extension to the premises and without planning permission, the material change of use of the premises to a House in Multiple Occupation (HMO) ("the unauthorised development and change of use").
 - The requirements of the notice are to:
 - Step 1 Cease the use of the premises as a House in Multiple Occupation (HMO).
 - Step 2 Remove all internal partitions, items, materials and debris associated with the unauthorised change of use, including all en-suite bathrooms/shower rooms and kitchen on the first floor of the premises.
 - Step 3 Demolish the unauthorised single storey rear extension and remove all items and debris, arising from that demolition, and remove all materials associated with the unauthorised development from the premises.
 - Step 4 Restore the internal configuration to the layout, which existed prior to the unauthorised change of use and development took place, as shown in Plan A attached to this notice.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f), (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.
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Decision

1. The appeal 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.

The appeal on ground (c)

2. An appeal on ground (c) seeks to argue that the matters alleged in the notice do not constitute a breach of planning control. The burden of proof falls to the appellant and the test of the evidence is on the balance of probabilities.
3. The appellant's case in this regard is that the single storey rear extension was permitted development following a determination¹ by the Council that prior approval was not required. It is also argued that the change of use to a House in Multiple Occupation (HMO) was permitted development.

¹ Council Decision Notice in relation to prior approval application ref. 19/2943

4. It is therefore firstly necessary to consider whether the single storey rear extension is permitted development, having regard to the relevant provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, (the GPDO).
5. Schedule 2, Part 1, Class A of the GPDO states that the enlargement, improvement or other alteration of a dwellinghouse is permitted development, subject to various limitations and conditions. Pursuant to the provisions of Schedule 2, Part 1, Class A, paragraphs A.1(g) and A.4 of the GPDO, an application for prior approval² was submitted to the Council on 14 August 2019 for a single storey rear extension. As no objections were received from the neighbours, on 12 September 2019 the Council determined that the prior approval of the authority was not required.
6. Nevertheless, the Council considers there to be material differences between what was proposed as part of the prior approval application and what has subsequently been built, to such a degree that the extension is not the development that was proposed by the application for prior approval.
7. To support that view, the Council has referred me to a recent appeal decision³ in relation to the same building where the Council's refusal to grant a lawful development certificate for the existing single storey rear extension was upheld.
8. The Inspector in that case found that, while remaining within the size parameters set out within paragraph A.1(g) of Schedule 2, Part 1, Class A of the GPDO, the extension as subsequently built differs from the prior approval scheme. These differences are: (1) the drawings submitted with the prior approval application appear to show the extension straddling both sides of the adjoining boundaries, whereas the development as built is fully contained within the site boundary; (2) the prior approval plans show the internal layout as being an extension of the existing living area and kitchen areas divided by an off-centre internal partitioning wall, but the as built development includes an internal layout with two bedsitting rooms and part of the en-suite facilities serving those rooms, along with part of the hall leading to each room; and (3) the proposed rear elevation plan provided as part of the prior approval application shows a single door and window serving the kitchen and a pair of patio doors leading out from the living area, yet the as built elevation includes a single door and window serving each of the two bedrooms.
9. In addition, I observed that the as built extension includes a felted overhang with soffits and guttering to the rear gable elevation. These design features also differ from the prior approval scheme, demonstrating further departures from the plans and drawings provided as part of the prior approval application.
10. The appellant does not dispute these differences, and the same set of existing plans⁴ have been presented to support this appeal. Furthermore, I was able to observe all these differences during my site visit.
11. The previous Inspector went on to find that the single storey rear extension had not been carried out in accordance with the information provided, as required by paragraph A.4(11)(b) of the GPDO. He considered the as built

² Application Ref. 19/2943

³ Appeal Ref. APP/T5150/X/20/3261066

⁴ Appendix 3 of the Appellant's Statement; Drawing No. PL-011 & PL-012

scheme to differ materially from the permitted development scheme to such an extent that it does not have planning permission at all. Consequently, he found that the single storey extension, as built, was not granted planning permission by Class A of the GPDO under prior approval application reference 19/2943. In these regards I find the Inspector's reasoning to be impeccably clear and robust, therefore I see no reason to deviate from this view.

12. Having carefully considered the evidence before me in this case, and from my own observations during my site visit, there is nothing before me to suggest that I ought to deviate from the previous Inspector's findings. Therefore, in the context of this ground (c) appeal, I find that the differences between the prior approval scheme and the as built development are material, to the extent that the development as it exists today, and as it did at the time the enforcement notice was served, is not the development that was permitted pursuant to the prior approval application. Consequently, it is not permitted development and as such it does not benefit from planning permission.
13. The appellant suggests that additional plans and drawings were provided beyond those required by the prior approval process, and therefore questions whether or not the prior approval development was required to be carried out in accordance with those plans. Nevertheless, proposed elevations, sections and floor plans were provided to satisfy the requirements of the prior approval process set out in paragraph A.4(2) of Class A, Part 1 of the GPDO, and these plans were clearly listed on the Council's decision notice. Therefore, as required by paragraph A.4(11)(b), the development must be carried out in accordance with the information provided. However, that did not happen in this case.
14. The appellant argues that if I am to find that the departures from the prior approval scheme are considered material, the development would at best be in breach of the GPDO conditions. However, the as built development differs considerably to the prior approval scheme, primarily because the prior approval scheme would have extended noticeably beyond the boundaries of the site; resulting in a larger footprint, it would have included a totally different internal layout, and its rear elevation would have a completely different arrangement of windows and doors.
15. Whether or not an adjoining neighbour might have objected, had they been consulted on plans showing the as built scheme, and thereby triggering the need for the prior approval of the Council, is somewhat of a moot point, because it would not alter my findings as set out above. It is not therefore a determinative matter upon which the ground (c) appeal turns.
16. In relation to the HMO use, it is common ground between the parties that the change of use occurred after the rear extension was built. Article 3 and Schedule 2, Part 3, Class L of the GPDO provides permitted development rights for development consisting of a change of use of a building from a use within Class C3 (dwellinghouses) to a use falling within Class C4 (houses in multiple occupation). However, Article 3(5) of the GPDO states that the permission granted by Schedule 2 does not apply if, in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful.
17. Because I have found that the single storey rear extension does not in fact benefit from planning permission, and is therefore unlawful, Article 3(5) of the GPDO is engaged. As a consequence, the appeal property cannot benefit from

permitted development rights until such time as any lawfulness issues are resolved. It follows therefore, that the Class L permitted development rights did not apply at the time the change of use occurred. As a result, the change of use is not permitted development and it does not benefit from a grant of planning permission.

18. I have noted the appellant's legal submissions surrounding the ground (c) appeal, but they offer no substantive reasons to depart from my findings, or indeed the findings of the previous Inspector.
19. For the above reasons, I find that, on the balance of probabilities, the single storey rear extension as built is not permitted development and does not benefit from a grant of planning permission. Therefore, I also find that the change of use to a HMO was not permitted development. The ground (c) appeal must therefore fail.

The appeal on ground (a)

20. The appeal on ground (a) is that planning permission ought to be granted for the matters alleged in the notice. In doing so, the appellant seeks permission for the single storey rear extension, as currently constructed, and the use of the property as a HMO with six bedrooms.
21. The main issues are:
 - Whether a specific need for the HMO has been demonstrated, and whether or not the development would result in an over-concentration of this type of accommodation in the area;
 - Whether the development provides satisfactory living conditions for occupants, with regard to the size and standard of accommodation;
 - The effect of the development on the living conditions of neighbouring residents, with particular regard to noise and disturbance;
 - The effect of the development on the living conditions of the neighbouring occupiers of No.33 Rosemead Avenue, with regard to outlook and light; and,
 - The effect of the development on the character and appearance of the host property and the surrounding area.

Need for the HMO, and concentration

22. Policy BH7 of the Brent Local Plan 2022 (the Local Plan) sets out the Council's approach to proposals for accommodation with shared facilities or additional support, including proposals for non-self-contained residential accommodation with shared facilities. Such proposals will be supported where specific criteria is met.
23. Criterion d) of Policy BH7 requires proposals to demonstrate that there is a specific need for the particular use within the borough of Brent. While criterion e) seeks to ensure that the proposal will not lead to an over-concentration of this type of accommodation in the area.
24. With regard to need, the supporting text to Policy BH7 advises that the Council will seek to ensure, with an exception for students, that the accommodation

proposed is addressing a Brent population specific need. The Council's Houses in Multiple Occupation Supplementary Planning Document 2022 (the 2022 SPD) reinforces this approach, acknowledging that HMOs perform an important part in housing people within the borough but noting that that HMO accommodation is still likely to compete for the same properties with families who also need 3 bedroom dwellings or larger. The need for this family accommodation is also significant within the borough, and it appears to me that the policy impetus is to ensure a sufficient supply of family homes to meet the borough's housing need.

25. The appellant is of the view that the proposal would not result in the loss of a family home because it could easily be returned back to its original use. They also suggest that because there are not many other HMO's within the close vicinity of the area, and given the site is close to local shopping centres and transport connections, there is a clear need for HMO accommodation.
26. Nevertheless, this does not demonstrate need. Indeed, there is no substantive evidence before me to demonstrate that there is a specific Brent need for the HMO. Consequently, the proposal does not comply with criterion d) of Local Plan Policy BH7.
27. Turning now to criterion e) of Policy BH7, for HMOs the policy defines an over-concentration as being where three or more of the ten nearest properties are HMOs. The supporting text to the policy advises that this is to be measured by taking the nearest front entrances when walking from the front door of the property. The Council have indicated that No.'s 31, 17, 15 and 13 Rosemead Avenue are all HMOs. However, all of these properties are located to the East of the appeal site, but properties also exist to the immediate West. Therefore, I am not convinced that all of these properties, based on the Council's own definition, would qualify as being the ten nearest to the appeal site.
28. That said, in applying the above definition, the appellant has not identified the 10 nearest properties or provided any data in relation to the use or type of accommodation provided by these nearest properties. Therefore, it has not been demonstrated that the proposal would not result in an over-concentration of HMOs in the area.
29. Bringing all these points together, a specific need for the HMO has not been demonstrated, and there is insufficient evidence to show that the proposal does not result in an over-concentration of HMOs in the area. Therefore, the development is in conflict with Policies DMP1 and BH7 of the Local Plan and the associated guidance set out in the HMO SPD, which together require proposals to demonstrate that they would meet a specific Brent need, and not lead to an over-concentration of the type of accommodation.

Living conditions of occupants

30. Local Plan Policy DMP1 requires high levels of internal and external amenity. For HMOs, Policy BH7 of the Local Plan states that proposals will be supported where they are of an acceptable quality meeting appropriate standards for the needs of its occupants, including external amenity space and appropriate communal facilities.
31. The HMO SPD sets out the minimum standards for HMO accommodation. This includes minimum room sizes and the provision of both internal and external

shared amenity space. These standards are predominantly set by the net internal floor standards prescribed by Policy D6 of the London Plan 2021 (the London Plan) and are considered the minimum acceptable to gain planning permission.

32. The HMO SPD states that bedrooms must not be the only potential route for the property's other residents to gain access to rear communal outdoor amenity space. Bedrooms with windows facing directly onto communal outdoor amenity spaces must have sufficient defensible space to ensure sufficient privacy for these occupants. In addition, for every 3 households, or 5 people (whichever is the lower) a kitchen space of at least 5.5m² is required, and in conversions of existing multi-storey dwellings (up to 3 storeys including loft) kitchens should only be on the ground floor. This is to allow the potential easy conversion of the property back to a family dwelling.
33. In this case, the development does not include any shared indoor amenity space, and the external amenity space is only accessible via the two ground floor rear-facing bedrooms. The development also includes a kitchen on the first floor, contrary to the guidance set out in the HMO SPD. Furthermore, the appellant has not provided any internal dimensions, or other measurements, to illustrate that the proposal would meet the minimum room sizes, or other standards, required by the HMO SPD.
34. The lack of compliance with these minimum standards is harmful to the living conditions of occupants of the HMO, who in accordance with Local Plan policy can reasonably expect a higher standard of accommodation.
35. Consequently, I find that the development does not provide satisfactory living conditions for occupants, with regard to the size and standard of accommodation. Therefore, the development is contrary to Local plan Policies DMP1 and BH7 along with the requirements set out in the HMO SPD, the relevant aims of which are set out above.

Living conditions of neighbouring residents

36. Rosemead Avenue is a residential street characterised by terraced housing. The housing appears to be a mix of both family homes and some shared accommodation.
37. The Council is concerned that the development results in harm to the residential amenity of neighbouring occupiers by virtue of increased comings and goings resulting in noise and disturbance. It is also concerned that no management plan has been provided to mitigate any adverse effects on neighbouring residents.
38. The change of use to a HMO with six bedrooms is materially different in nature to that of a single family dwelling. The increased occupation of the property by at least six residents living independently of one another is likely to give rise to a greater frequency of comings and goings at different hours of the day and night.
39. Furthermore, it is likely that there could be a greater number of visitors, associated with the unrelated identities of the occupants. Also, as most of the occupants will be adults, there are likely to be significantly more comings and goings than a single family with children, particularly later into the evening. This increased occupation of the property, as a result of the development, and

the associated frequency of comings and goings at all hours of the day and night, is likely to result in significant noise and disturbance to neighbouring residential occupiers, creating the potential for antisocial behaviour, and thereby diminishing their living conditions.

40. These impacts will largely depend upon the individual lifestyles of occupants, and how the property is managed. The appellant has briefly set out their intentions for how the property would be managed. However, this does not amount to a formal management agreement of the type that is required by Local Plan policy BH7 and the associated guidance set out in the HMO SPD.
41. These adverse impacts would be amplified by virtue of there already being a number of converted properties nearby. Furthermore, in the absence of evidence to the contrary, I cannot be satisfied that the development does not result in an over-concentration of shared accommodation in the area, and the harmful effects this would bring about for neighbouring residents.
42. Drawing these points together, I find that the development is harmful to the living conditions of neighbouring residents, with particular regard to noise and disturbance. Therefore, the development is contrary to Policies DMP1, BH7 and the guidance set out in the HMO SPD, which together requires development to not unacceptably increase noise and general disturbance, not unacceptably impact on neighbour amenity, and proposals for shared accommodation to include management agreements agreed with the Council.

Living conditions of the neighbours at No.33 Rosemead Avenue

43. The Council's Residential Extensions & Alterations Supplementary Planning Document 2 (SPD2) advises that extensions of up to 6 metres in depth may be acceptable providing that for every additional metre beyond 3 metres in depth, the extension should be set in from the boundary by an additional metre to protect neighbouring residential amenity.
44. The single storey rear extension projects approximately 5.9 metres from the original rear elevation of the appeal property, with an eaves height of 2.8 metres and rising to an overall height of approximately 3.5 metres. It extends across the full width of the rear elevation of the property for its entire depth.
45. The Council has alerted me to a planning application that was refused for the same single storey rear extension, with the subsequent appeal being dismissed⁵.
46. The Inspector in that case found that because of its height and substantial length, immediately adjacent to a significant proportion of the boundary, the extension appears as a visually imposing and intrusive form of development that dominates the outlook from the rear elevation patio doors of No.33, as well as from its patio and garden area. He also found that, due to its size and orientation, the extension also results in a loss of sunlight entering the neighbouring dwelling and garden.
47. Consequently, the Inspector went on to find that the extension results in significant harm to the living conditions of the occupants of No.33, contrary to Local Plan Policy DMP1 and SPD2. Together, among other things, this policy

⁵ Appeal Ref: APP/T5150/W/20/3261074

and guidance seek to ensure that development is of a siting, layout, scale and design that provides high levels of internal and external amenity.

48. From the observations during my visit, I have no reason to take a contrary view to the findings of the previous Inspector. Therefore, I too find the single storey rear extension to be harmful to the living conditions of the neighbouring occupiers of No.33 Rosemead Avenue, with regard to outlook and light. Consequently, I also find the development to be in conflict with the aforementioned policies and guidance.

Character and appearance

49. The appeal property forms part of a terrace of similarly designed properties, with good sized rear gardens. While some properties in the surrounding area have been extended to varying degrees, most have retained good sized rear gardens, and extensions are generally of a subservient scale. SPD2 advises that rear extensions should be designed to respect the character and size of the house.
50. Due to its width and depth, the single storey extension has resulted in a sizable addition to the property that takes up a large part of the rear garden area. As a result, it harmfully dominates the rear of the property and overwhelms the rear garden area. In doing so, the extension amounts to a visually discordant and intrusive form of development that fails to respect the character, size, and appearance of the host property.
51. Consequently, I find that the development has an unacceptable harmful effect on the character and appearance of the host property and the surrounding area. Therefore, it is contrary to Local Plan policy BD1, London Plan policy D3, and the associated guidance set out in SPD2. Together these policies and guidance seek to achieve development of the highest architectural and urban design quality that positively responds to the surrounding character and local distinctiveness.

The alternative scheme

52. In the event that I find the development to be harmful, and I am minded to dismiss the ground (a) appeal and refuse planning permission, the appellant has put forward an alternative scheme.
53. This alternative scheme⁶ would result in a HMO with four bedrooms and a revised internal layout. The proposal includes a reduction in the depth of the single storey rear extension and part of it stepped in from the shared boundary with No.33. It seems to me that this alternative proposal can reasonably be regarded as part of the scheme that constitutes the breach of planning control. Therefore, it is appropriate for me to consider this alternative scheme as part of the ground (a) appeal.
54. This alternative scheme is not accompanied with any further evidence in relation to whether it meets a specific need, or in relation to neighbouring uses to demonstrate that it would not result in a harmful over-concentration of HMOs in the area. Therefore, it does not overcome my initial concerns in these regards.

⁶ Appendix 7 of the Appellant's Statement of Case, By Eade Planning Ltd.

55. Plans⁷ accompanying the alternative scheme show four single bedrooms spread across the three floors of the HMO, but the appellant states that the proposal would be limited to five tenants. Therefore, at least one of these four bedrooms would be a two person room. Taking the largest bedroom on the second floor, the plan indicates that this room would be 11.20sqm. This is below the 11.5m² standard set out in the HMO SPD.
56. The proposal also includes a utility room on the first floor and a small kitchen on the second floor, contrary to the guidance set out in the HMO SPD. A shared living/dining area would be provided in the rear extension, but no floorspace calculations for this or the shared kitchen area have been provided. Therefore, it has not been demonstrated that these shared communal areas would meet the expected standards set out in the HMO SPD.
57. Reducing the number of tenants to five would marginally reduce the intensity of the use and the associated impacts of the proposal on neighbouring residents in relation to noise and disturbance. Nevertheless, a management agreement has not been provided and so it has not been demonstrated that the proposal would not result in harm to the living conditions of neighbouring residents.
58. Reducing the depth of the single storey rear extension and stepping it in from the neighbouring boundary with No.33 would reduce its scale and massing along the shared boundary. However, the plans are not annotated with measurements for the depth of the alternative rear extension or its set back from the shared boundary. Therefore, I cannot be sure that it would comply with the guidance set out in SPD2, or that it would maintain an acceptable standard of outlook and light for the occupiers of No.33. Similarly, this lack of illustrative information does not demonstrate that the extension would be acceptable in visual terms.
59. For these reasons, I am not convinced that this alternative scheme would overcome the totality of the harm I have identified or the associated conflicts with the development plan. Nor has it been demonstrated that it would comply with the guidance set out in the accompanying SPDs.

Other Matters

60. In its reasons for issuing the notice, the Council cite conflict with Local Plan Policies BH10, BH11 and BH13. These policies seek to resist the loss of housing, set standards for the conversion of family sized homes to two or more dwellings, and require the provision of residential amenity space for new dwellings. In this case, the development does not result in the net loss of residential dwellings or a conversion that would result in two or more dwellings. Nor does the proposal result in the creation of a new dwelling. Therefore, these policies are not relevant to the appeal.
61. In support of the appeal, I note that the site is located with good access to a number of local services, facilities and sustainable modes of transport. Provision for cycle storage/parking and the storage of refuse bins could also be provided and secured by condition. The appellant has also suggested that they would regularly inspect the property and a management company would be engaged to clean communal areas and maintain the front and rear garden

⁷ Drawing No. RA.35.PR.01 & Drawing No. RA.35.PR.02

areas. It is also suggested that prospective tenants will be carefully vetted prior to taking up a tenancy at the property. Nevertheless, these matters do not outweigh the harm I have found in this case or the associated conflicts with planning policy.

Ground (a) conclusion

62. A need for the HMO has not been demonstrated. Nor has it been demonstrated that the development does not result in a harmful over-concentration of HMOs in the area. The development does not provide satisfactory living conditions for occupants and is harmful to the living conditions of neighbouring residents. There is also harm to the character and appearance of the host property and the surrounding area.
63. The alternative scheme advanced by the appellant does not overcome these concerns and therefore it does not warrant a grant of planning permission. Accordingly, the proposals are contrary to the above cited policies of the development plan, and no material considerations of sufficient weight have been advanced to overcome this.
64. Therefore, for the reasons given, I conclude that the appeal on ground (a) should fail, and that planning permission should be refused in respect of the deemed planning application.

The appeal on ground (f)

65. This ground of appeal is that the requirements of the notice exceed what is necessary to remedy any breach of planning control.
66. When an appeal is made on ground (f), it is essential to understand the purpose of the notice. Section 173(4) of the Town and Country Planning Act 1990 (the 1990 Act) sets out the purposes which an enforcement notice may seek to achieve, either wholly or in part. These purposes are, in summary, (a) the remedying of the breach of planning control by making the development comply with the terms of any planning permission, by discontinuing any use of the land, or by restoring the land to its condition before the breach took place, or (b) remedying any injury to amenity which has been caused by the breach.
67. In this case, the objective of the notice is to discontinue the use of the property as a HMO and to return the land to its condition before the breach of planning control took place. It follows that the purpose of the notice is to remedy the breach, as explicitly stated within the notice itself.
68. Pursuant to their ground (c) argument the appellant suggests that at best the development would be in breach of condition A.4(11)(b) of Schedule 2, Part 1, Class A of the GPDO, which requires the development to be carried out in accordance with the information provided. Therefore, they are of the view that removal of the single storey extension in its entirety is excessive, and instead the notice could only require compliance with the condition.
69. It can be seen from my findings on the ground (c) appeal that I do not share this view, and instead I have found that the single storey rear extension does not benefit from any grant of planning permission. Therefore, given that the purpose of the notice is to remedy the breach of planning control, in relation to the operational development, this can only be achieved by the removal of the

extension in its entirety. To require that does not, therefore, exceed what is necessary.

70. The appellant also takes issue with the requirements for the removal of all internal partitions, items, and materials; including all en-suite bathrooms/shower rooms and kitchen on the first floor of the premises. They also consider the requirement to restore the internal configuration of the property to that which existed prior to the unauthorised change of use and development took place, to be excessive, over-prescriptive and to go beyond what is required.
71. The existing internal partitions which form the current layout of the property, along with other items and materials including en-suite bathrooms and the kitchen on the first floor facilitate the use of the property as a HMO. This existing layout and its associated en-suites and kitchen areas are inconsistent with the lawful use of the property as a single family dwelling.
72. Therefore, the removal of the internal partitions and associated items and materials, along with the restoration of the internal layout as shown in Plan A attached to the notice, is necessary to resolve the breach of planning control. This requirement, along with the clearance of all resultant debris, does not, in my view, exceed what is necessary and are the least onerous to prevent the resumption of the unauthorised use. Furthermore, no lesser steps have been put forward that would remedy the breach of planning control.
73. Consequently, the ground (f) appeal must fail.

The appeal on ground (g)

74. The ground of appeal is that the period for compliance specified in the notice falls short of what should reasonably be allowed. The period for compliance specified in the notice is six months.
75. The appellant seeks a period of 10 months to comply with the requirements of the notice, on the grounds that it will take some time to secure a good builder at an acceptable price to carry out the works. They also point out that six tenants must be given notice to vacate the property and given time to find new accommodation.
76. However, none of the appellants' claims in these respects have been substantiated by any evidence. I consider six months to be a reasonable period of time for tenants to vacate and search for alternative accommodation. Consequently, extending the compliance period to 10 months, as suggested, would perpetuate the breach of planning control and the associated harm, without sufficient justification.
77. I am, therefore, not persuaded that there is a need to extend the period for compliance with the requirements of the notice, and I am satisfied that the period of compliance stated in the notice is a proportionate response to the breach of planning control that has occurred.
78. Accordingly, the appeal on ground (g) fails.

Conclusion

79. I recognise that a refusal of planning permission coupled with the requirements of the notice would interfere with the tenants' rights under Article 8 of the

Human Rights Act 1998, which states that everyone has a right to respect for private and family life, their home and correspondence. However, these are qualified rights, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. In this case, I have found the proposed development to be in conflict with planning policies that seek to promote and protect public interests, and this is not outweighed by other considerations. Accordingly, the degree of interference would be insufficient to give rise to a violation under Article 8 and therefore would not result in a disproportionate burden.

80. Consequently, for the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act, as amended.

J M Tweddle

INSPECTOR