



Appeal Decision

Site visit made on 3 December 2024

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 January 2025

Appeal Ref: APP/T5150/C/23/3319324

2 Avenue Road, London NW10 4UQ and the building adjoining 2 Avenue Road

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Paramjit Singh Randhawa against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice was issued on 20 February 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the former garage to a separate dwelling; the removal of the garage door and in its place, the installation of a brick wall with a uPVC window and door in the front façade.
 - The requirements of the notice are:
 - STEP 1 Cease the use of the premises as a separate flat and remove all kitchen facilities, toilet and washing facilities and any other item associated with the unauthorised use.
 - STEP 2 Remove the uPVC door and in its place at the same height and level as the other window in the front façade, install a window ensure that it matches the other window. Use bricks to match those used in the front facade to brick up the area where the front door formerly stood up to the height of the newly installed window.
 - STEP 3 Insert an internal doorway between the former garage and the reception room of 2 Avenue Road. The former garage shall not be used for any purpose, except as part of dwellinghouse known as 2 Avenue Road.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - 1) Deleting *NW10* where it appears after *Road* in the address in Schedule 1 of the enforcement notice.
 - 2) Deleting the word *flat* after *separate* in STEP 1 in Schedule 4 and replacing it with the word *dwelling*.
 - 3) Deleting STEP 3.
2. Subject to the correction and variations, the appeal is allowed insofar as it relates to the removal of the garage door and in its place, the installation of a brick wall with a uPVC window and door in the front façade and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended), for the installation of a brick wall with a uPVC window and door in the front façade at 2 Avenue Road, London

NW10 4UQ and the building adjoining 2 Avenue Road as shown outlined bold in black on the plan attached to the enforcement notice.

3. The appeal is dismissed, and the enforcement notice is upheld as corrected and varied insofar as it relates to the material change of use of the former garage to a separate dwelling at 2 Avenue Road, London NW10 4UQ and the building adjoining 2 Avenue Road and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Preliminary Matters

4. The appeal site is located within the Harlesden Conservation Area. The reasons for issuing the notice do not refer to the Conservation Area however, section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
5. The terms of the appeal on ground (a) derive directly from the alleged breach of planning control set out in the notice. Nevertheless, I do have the power under section 177(1)(a) of the 1990 Act to grant planning permission for any part of the matters stated in the notice.

The Enforcement Notice

6. There is an erroneous postcode reference in the address given in schedule one of the notice, which I have deleted from the decision.
7. The requirements should reflect and follow logically from the allegation. I have therefore replaced the word *flat* with *dwelling* in STEP 1 to bring the step into line with the allegation. There is no injustice since this neither enlarges nor reduces the scope of the notice or requirements.

The appeal on ground (a) the deemed planning application

8. The main issues are (i) the standard of accommodation and (ii) whether the development preserves or enhances the character or appearance of the Harlesden Conservation Area.

Reasons

Standard of accommodation

9. The dwelling consists of a multi-use space, with a sleeping area, kitchen, and a separate shower room. There is no lounge or amenity space in which occupiers could eat, relax, and watch TV for example and little storage space. Moreover, the dwelling has only one window.
10. Policy D6 of The London Plan 2021 requires a one-bedroom, one-person, single storey dwelling to provide a minimum gross internal floor area of 37sqm. At around 15sqm this is a significant shortfall and combined with my observations, the dwelling is excessively small such that the living conditions in the dwelling are cramped and oppressive, to the detriment of the living conditions of occupiers.
11. The dwelling does not provide satisfactory living conditions for occupiers contrary to Policy D6 of The London Plan 2021 and Policy DMP1 of the Local

Plan¹ which together require development to be of an acceptable quality and provide high levels of internal amenity. It also conflicts with the National Planning Policy Framework (the Framework) which seeks to ensure a high standard of amenity for existing and future users of buildings.

Conservation area

12. As set out in the Harlesden Conservation Area Character Appraisal, the special character of the Conservation Area is derived from the historic setting. It is the variety of different styles along the relatively short section of road which give it a distinctive character with a traditional appeal. The area is predominantly made up of shop/business units with flats above and the character of space is defined by the four and five storey buildings and their relationship to the High Street.
13. The alterations to the front have been carried out with materials which match the adjacent house, namely red brick and white UPVC. They have replaced a garage door which appeared to be constructed from black painted timber and which made a neutral contribution to the appearance of the Conservation Area. Given the use of matching materials, the domestic appearance and modest scale, I consider the alterations cause no harm and therefore preserve the appearance of the Conservation Area.
14. Accordingly, there is no conflict with Policy DMP1 of the Local Plan which states that development will be acceptable provided it is of a detailing and design that complements the locality. It also accords with the heritage protection aims of the Framework.

Other matters

15. The dwelling would make a very modest contribution to the supply of homes. Accordingly, this and that the dwelling is located in an accessible location do not outweigh the identified harm in respect of the standard of accommodation. Moreover, the conflict with the development plan means the development does not represent sustainable development for which the Framework presumes in favour.

Conclusion on ground (a)

16. For the reasons given, I find that the use as a separate dwelling is unacceptable. However, since I have found no harm in respect of the removal of the garage door and in its place, the installation of a brick wall with a uPVC window and door, I consider it is appropriate to issue a split decision. I therefore intend to grant planning permission under section 177(5) of the 1990 Act for the installation of a brick wall with a uPVC window and door in the front façade.
17. Since the development is externally complete no conditions are necessary.
18. Although planning permission has been granted in respect of part of the development enforced against, the notice has been upheld without varying the requirements relating to those parts, since this could have given rise to two separate planning permissions, namely the one that has been granted in this

¹ London Borough of Brent Brent Local Plan 2019-2041 Adopted February 2022

appeal decision and the one that would be deemed to be granted by section 173(11) due to under-enforcement.

The appeal on ground (f)

19. The appeal on ground (f) is that the requirements of the notice exceed what is necessary to achieve the purpose of the notice.
20. The appellant's case on this ground relates to STEP 2 which I have considered under ground (a).
21. The appellant's floor plans show no doorway between the former garage and the dwelling. Accordingly, and since there is no scope to require reversion to the lawful use or that another activity takes place, STEP 3 is excessive, and I shall vary the requirements to delete it. The appeal on ground (f) succeeds to this limited extent.

The appeal on ground (g)

22. An appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant requested a period of 12 months based on the need to appoint a contractor and source materials.
23. The purpose of the time period within an enforcement notice is to allow for the use to cease and the physical works associated with the notice to be removed. The appellant's submission largely relates to the time before the works can commence.
24. In the absence of substantive evidence about the availability of contractors and bearing in mind my findings in respect of the appeal on ground (a), I find the period is reasonable and proportionate to the breach of planning control. The appeal on ground (g) fails.

Conclusion

25. For the reasons given, I conclude that the appeal should succeed in part only, and I will grant planning permission for the removal of the garage door and in its place, the installation of a brick wall with a uPVC window and door in the front façade, but otherwise I will uphold the notice with a correction and variations and refuse to grant planning permission in respect of the use as a separate dwelling. The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of section 180 of the 1990 Act (as amended).

Felicity Thompson

INSPECTOR