



Appeal Decisions

Site visit made on 17 March 2025

by **M Savage BSc (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 April 2025

Appeal A Ref: APP/N4720/C/24/3344294

2 Greystones Close, Aberford, Leeds LS25 3AR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Celestina Obasuyi against an enforcement notice issued by Leeds City Council.
 - The notice was issued on 17 April 2024.
 - The breach of planning control as alleged in the notice is without permission the unauthorised subdivision of single dwelling house into three self contained flats.
 - The requirements of the notice are to:
 1. Cease the unauthorised use of the property as three self contained flats.
 2. Remove one kitchen from the ground floor and the kitchen from the first floor
 3. Remove all advertising, online and with estate agents of the flats for rent.
 - 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). 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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Appeal B Ref: APP/N4720/W/24/3344215

2 Greystones Close, Aberford, Leeds LS25 3AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Celestina Obasuyi against the decision of Leeds City Council.
 - The application Ref is 23/06133/FU.
 - The development proposed is 'for an existing Dwelling to have the property split up into 3 Dwellings (change of use).'
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Decision: Appeal A

1. It is directed that the enforcement notice is corrected and varied by:
 - The deletion of the word "subdivision" and its substitution with the words "material change of use", the insertion of the word "a" after the word "of" and the deletion of "in" from the word "into" in section 3, so that it says "Without permission the unauthorised material change of use of a single dwellinghouse to three self contained flats; and
 - The deletion of the word "three" in section 5, so that requirement 1. Says "Cease the unauthorised use of the property as self contained flats."
 - The deletion of requirement 3 in section 5. For the avoidance of doubt, the deletion of the words "Remove all advertising, online and with estate agents of the flats for rent."
2. Subject to the corrections and variation above, 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.

Decision: Appeal B

3. The appeal is dismissed.

Preliminary Matters

4. With respect to Appeal A, the enforcement notice alleges 'without permission the unauthorised subdivision of single dwelling house into three self contained flats'. It is clear from the four corners of the notice that what the Council is actually concerned with is the unauthorised material change of use of the single dwelling house to three self-contained flats. Correcting the alleged breach to refer to a material change of use would not change the substance of the allegation and so there would be no injustice were I to correct the notice to refer to material change of use and make some minor grammatical changes. I shall therefore correct the allegation accordingly.
5. Although not raised by the parties, requirement 1 of the enforcement notice requires the unauthorised use of the property as three self contained flats to cease. The risk of requiring 'use as three self contained flats' to cease is that the building could then be used for two or four flats. I shall therefore delete the word 'three' from requirement 1. Since this would not change the scope of the requirements, I consider such a correction can be made without causing injustice to either party.
6. With respect to Appeal B, the description of the proposed development includes 'My client will remain in the property called number 2. 2. Flat 2A, 3. Flat 2B.' Since this is not a description of development, I have not included it in the banner heading above. It is clear from the evidence that the subdivision of the property into three flats has taken place and so I have considered Appeal B on this basis.

Appeal A: Ground (a) and Appeal B

7. The appeal under ground (a) is made on the basis that planning permission ought to be granted for the matters stated in the notice as constituting the breach of planning control, which, as corrected, is the material change of use of single dwellinghouse into three self contained flats. Appeal B concerns a retrospective application for the subdivision of the dwelling into three self-contained flats. Given the similarities between the ground (a) appeal and Appeal B, I shall deal with them together.

Main Issues

8. The main issues of the appeals are:
 - Whether the flats provide satisfactory living accommodation for current and future occupants, having regard to internal floor space, external amenity space and outlook;
 - The effect of the appeal schemes on highway safety, having particular regard to parking provision; and
 - The effect of the appeal schemes on the living conditions of neighbouring occupants, having particular regard to noise and disturbance (Appeal A) and parking provision.

Reasons

9. The appeal site is located within a generally residential area which is characterised by detached dwellings of varying design. The appeal property comprises a dormer

bungalow, with a modest front garden which is paved and bound by a solid wall. The appeal property has been subdivided into three units of accommodation, with two units on the ground floor and one unit on the first floor.

10. The largest of the ground floor units (referred to by the appellant as No 2) comprises two bedrooms, one furnished with a double bed and bunk beds and the other furnished with a double bed, with views into the rear garden. There is a bathroom, lounge and dining room/kitchen, which provides access to the rear garden. A lockable door in the kitchen provides access to the kitchen of Flat 2B.
11. Flat 2B is accessed via a gate to the side of the property, with a modest entrance way, off which is a bathroom with a shower, a modest kitchen and a bedroom/living area. Flat 2 A is located on the first floor and is accessed via a vestibule area from the front door. The first floor is laid out with three bedrooms¹, a bathroom and a modest kitchen.
12. Outside, there is a modest garden which wraps around the house, which can be accessed via the dining room of one of the ground floor flats or via gates either side of the building. Access from Flat 2 B is limited in width and, during my visit, was impeded by bins. There is a modest garden room, which was locked at the time of my visit.

Living conditions: occupants

13. Policy H6 of the Core Strategy (as amended by the Core Strategy Selective Review 2019)(the CS) supports proposals for the conversion of existing houses into flats where certain criteria apply, including the internal layout is shown to be suitable for the number of units proposed and the dwellings provide satisfactory internal living accommodation in terms of daylight, outlook and juxtaposition of living rooms and bedrooms.
14. Policy H9 of the CS sets out minimum space standards which all new dwellings must comply with. For a 1 bed, 1 person dwelling with a shower room, the minimum floor space required is identified as 37 square metres (sqm). The Council states that the internal floor space provided by Flat 2B is 27sqm (which is not disputed by the appellant). Although the bedroom may exceed the minimum size required by policy H9 for double bedrooms and have adequate natural light, the overall floor space of the flat falls well below the minimum required by policy H9. Furthermore, there is no separate living space, such as a living room or dining room.
15. For a 3 bed, 4 person flat, policy H9 states that 74sqm is required as a minimum. However, the internal floor space provided by Flat 2A is around 56sqm, which is well below the floor space required by policy H9. There is also no separate living space, such as a lounge or dining room. Although one of the rooms identified as a bedroom on the plan was laid out with a sofa at the time of my visit, I do not consider it would be reasonable to prevent its use as a bedroom via condition.
16. Moreover, even if one of the bedrooms in Flat 2A were used as living space and I were to consider it a 2 bed unit of accommodation, this would still be below the minimum requirements set out in policy H9². While the shortfall would be more limited, the standards are a minimum, with the aim of the policy being to improve

¹ The plan submitted for Appeal B shows 3 bedrooms, though the largest room was laid out with a sofa at the time of my visit.

² Floor space requirements for a 2 bed 3 person dwelling is 61sqm.

the quality of housing. The commentary to the policy explains that there has been growing concern that the internal space of new dwellings is getting smaller, with implications for accessibility, for sustainability and for quality of life including health.

17. The bedroom windows for the larger flat on the ground floor overlook the front garden and rear garden respectively and the bedroom window for Flat 2B overlooks the front garden. Given the modest size of the gardens, individuals using the front and rear gardens are likely to be able to peer into the windows of these bedrooms. While there are windows in the kitchen to Flat 2B, and a second window to the bedroom (with frosted glazing), they have a limited outlook towards a close boarded fence. Furthermore, the dining room of the larger flat looks out onto the rear garden. Were the garden to be used by occupiers of Flat 2A and 2B, users of the larger ground floor flat are likely to find this intrusive.
18. As a consequence, I find the ground floor flats do not provide satisfactory outlook for their occupants, contrary to policy GP5 of the Leeds Unitary Development Plan Review (2006)(the UDP), which seeks to avoid loss of amenity, the expectations of the National Planning Policy Framework (December 2024)(the Framework), which seeks a high standard of amenity for existing and future users and the advice contained within the Neighbourhoods for Living Supplementary Planning Guidance (2015)(NfLSPG), which advises developers allow sufficient space about dwellings to provide for visual and physical amenity to protect privacy and prevent unwanted intrusion.
19. The appellant suggests that the amenity space to the rear, including the garden room, provides sufficient outdoor space for current and future occupants. However, the space is modest and, with respect to the occupants of Flat 2B, is difficult to access (the route from the front door of Flat 2B to the outside space was of limited width and partially blocked by bins during my visit). Given the number of people that the premises could accommodate, I consider the space provided is unlikely to be sufficient to allow space for the various occupants to sit outside and enjoy the garden, for children to play and for activities such as the hanging out of washing.
20. Thus, I find the flats do not provide satisfactory accommodation for existing or future users, contrary to policies H6 and H9 of the CS and policy GP5 of the UDP, the requirements of which are set out above, policy P10 of the CS, which seeks high quality inclusive design, the guidance set out in the NfLSPG and the relevant expectations of the Framework.

Parking

21. Greystones Close is a cul-de-sac, which is located off Main Street. The appeal site provides modest off-road parking to the front of the building. The appellant suggests that there would be sufficient space for 4 vehicles (though the appellant suggests that only 3 is required). However, a wall to the front boundary limits circulation space to the front, meaning that vehicles accessing the property are likely to have to go in one way and out the other.
22. Policy H6 of the CS requires sufficient easily accessible and appropriately located off and on street car and cycle parking and policy P10 seeks car parking which is designed in a positive manner. Policy T2 of the CS states that parking provision will be required for cars, motorcycles and cycles in accordance with current

guidelines. The Leeds City Council Transport SPD (2023) advises a ratio of 1:1 for 1 bedroom dwellings, 1:1 to 1.5:1 for 2 bedroom dwellings and 2:1 for 3-4 bedroom dwellings. As such, I agree that 4 would be relevant for the appeal scheme.

23. Occupants of the different flats are likely to lead different lives and so may wish to use their vehicles at different times. Although it may be possible to physically fit 4 vehicles to the front, vehicles parked in front or behind another vehicle may need to be moved to enable a vehicle to exit the site. To avoid the need for others to move their car/s, I consider occupants are more likely to choose to park their vehicles on the street.
24. Although parking is not restricted along Greystones Close, the availability of on-street parking is limited as a consequence of the limited width of the road, the curvature of the road and by the number of dropped kerbs. Given the potential number of occupants of the property and the number of vehicles that could require access to the property, this is likely to increase the likelihood of individuals seeking to park in locations which may impede driver or pedestrian visibility, which is harmful to highway safety, contrary to policies H6, P10 and T2 of the CS and the guidance contained within the SPD, the requirements of which are set out above.

Living conditions: Neighbouring occupants

25. With respect to Appeal B and the effect of the appeal scheme on noise and disturbance, the Council states in its officer report for 23/06133/FU that 'Whilst it would be expected that the site would attract greater number of coming and goings, this would not be significantly different in terms of noise and disturbance from the existing lawful use as a single dwelling – which could be occupied by a large family for example.' I note that the Council did not refuse the application on this basis.
26. The enforcement notice, however, cites concerns that the appeal scheme leads to 'a significant intensification of the use of the property which harms the residential amenity of immediate neighbours through increased comings and goings which leads to increased noise and disturbance, an intensification of use of the private garden areas...'. This is also reiterated in the Council's appeal statement, notwithstanding the Council suggests in its statement of case in respect of Appeal A that there is no 'great' change to the amenities enjoyed by neighbouring residents, aside from parking issues.
27. The appeal property is a detached building, which is separated from neighbouring properties by close boarded fencing. Although the subdivision of the property is likely to result in a greater number of occupants using the premises, given the detached nature of the building, I consider that comings and goings of its occupants are unlikely to significantly harm the living conditions of neighbouring occupants.
28. The amenity space to the rear is unlikely to be used by occupants of the 3 flats at the same time because it is so modest in size, if it is used by the occupant of Flat 2B at all, given the awkward nature of the access to it. Furthermore, close boarded fencing and intervening buildings are likely to limit noise and disturbance generated by users of the outside space.
29. As set out above, I consider that at least some of the occupants of the flats are likely to choose to park on the street due to the limited off-road parking available

within the site. Properties in the area are generally set well back from the highway and so, while I note that other occupants of Greystones Close may find the additional on street parking that is likely to be generated by the flats inconvenient on some occasions, I consider this is unlikely to significantly harm the living conditions of neighbouring occupants.

30. As such, there would be no conflict with policy H6 of the CS, which seeks to ensure the impact on neighbouring dwellings is not likely to be detrimental to the amenity of their occupants, or policy GP5 of the UDP, which seeks to avoid loss of amenity. This is a neutral factor in my consideration of the appeal.

Ground (a) and Appeal B planning balance and conclusion

31. The Framework sets out the Government's objective of significantly boosting the supply of homes. The material change of use of the property into three flats would result in two extra units of accommodation. However, as set out above, the resultant flats fail to provide satisfactory living accommodation for their occupants and cause harm to highway safety. Thus, I find the appeal schemes conflict with the development plan as a whole and there are no material considerations which indicate that the decisions should be taken otherwise in accordance with the development plan.

Ground (f)

32. An appeal under ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by the matters stated in the notice, or to remedy any injury to amenity which has been caused by any such breach. It is clear from the wording of the notice that its purpose of the notice is to remedy the breach of planning control by ceasing the use of the property as self contained flats.
33. The appellant suggests that by requiring the cessation of the use and removing all advertising, this would remedy the breach of planning control. Although planning permission would not be required to install an additional kitchen within a dwellinghouse, where an enforcement notice is issued in respect of a material change of use, and works were carried out to facilitate the material change of use, an enforcement notice may require that the ancillary or incidental works are removed in order that the site is restored to its previous condition and the breach is remedied. This can include works which do not amount to development.
34. The appellant does not dispute that the kitchens were installed to facilitate the material change of use of the property to 3 flats and so it is not excessive to require their removal.
35. Although the appellant has not raised concern regarding requirement 3 of the notice, which requires the recipient of the notice to 'Remove all advertising, online and with estate agents of the flats for rent.', I have a duty to check whether any steps are excessive for the purposes of the enforcement notice.
36. Section 173(4) sets out that a notice may remedy the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by

discontinuing any use of the land or by restoring the land to its condition before the breach took place.

37. Although the appellant may wish to remove advertising of the flats for rent, requiring the removal of advertising is not necessary to discontinue the use of the land, nor would it achieve restoration of the land to its condition before the breach took place. Including it as a requirement within the notice is therefore excessive and I shall delete it. The appeal under ground (f) succeeds to this extent.

Ground (g)

38. An appeal under ground (g) is made on the basis that any period specified in the notice falls short of what should reasonably be allowed. The appellant suggests that, should any of the units be rented at the time before the appeal is decided, it would be unreasonable to expect the contract to expire and the works to be completed within six months. A period of nine months is requested to ensure there is sufficient time for any tenants to secure alternative accommodation and for the works to be carried out.
39. I have been provided with no substantive details regarding the occupants of the three flats, although from the appellant's application form for the planning application, I understand that the appellant occupies the ground floor unit known as 'number 2'. The ground floor flats both appeared to be occupied at the time of my visit, with personal effects evident. The first floor flat did not appear occupied, with very limited personal effects and beds unmade.
40. While the appellant's ground (f) has not succeeded with respect to the kitchens, given the modest size of the kitchen in Flat 2B (which is the kitchen I would expect the appellant would choose to remove), its removal is likely to be possible in a day or two (with the support of a suitably qualified individual/s). Similarly, the kitchen on the first floor, which is also modest in size, is likely to take limited time to remove.
41. While I agree that the appellant is entitled to assume success on their grounds of appeal, I consider 6 months is likely to be sufficient time for tenants to look for new housing and for the works to be carried out. Given the harms I have identified above, I consider 6 months is reasonable and proportionate and so the appeal under ground (g) fails.

Appeal A overall conclusion

42. For the reasons given above, I conclude that the requirements of the notice are excessive to remedy the breach of planning control. I shall correct and vary the enforcement notice prior to upholding it and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

M Savage

INSPECTOR