



Appeal Decision

Site visit made on 1 July 2025

by **A Berry MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 July 2025

Appeal Ref: APP/B1930/C/24/3347824

16 Perham Way, London Colney, St Albans AL2 1LB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act").
 - The appeal is made by Mr Scott Long against an enforcement notice ("EN") issued by St Albans City and District Council.
 - The EN was issued on 11 June 2024.
 - The breach of planning control as alleged in the EN is: Without planning permission, the conversion of a detached garage to a separate self-contained residential unit.
 - The requirements of the EN are to:
 - (1) Cease the use of the detached garage building, shown outlined in blue on the plan labelled 'A' attached to this Notice, for residential purposes as a self-contained dwelling.
 - (2) Remove from the garage building all the floor and wall mounted kitchen units including the fixtures and fittings.
 - (3) Remove from the garage building all the kitchen appliances including, cooker and hob, microwave, refrigerator.
 - (4) Remove from the garage building the kitchen water supply and the internal and external waste pipes attached to the kitchen sink.
 - (5) Remove from the garage building the fitted bathroom units, toilet, shower and wash basin.
 - (6) Remove from the garage building the shower room water supply and the internal and external waste pipes attached to the toilet, shower and wash basin.
 - (7) Remove from the outbuilding the beds.
 - (8) Remove from the land and dispose of all rubble, waste materials and debris in relation to compliance with Steps (2), (3), (4), (5), (6), and (7) above.
 - The period for compliance with the requirements is: Six (6) months after this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b) and (f) of the 1990 Act. 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 1990 Act.
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Decision

1. It is directed that the EN is corrected and varied by:
 - *the deletion of the words "Without planning permission, the conversion of a detached garage to a separate self-contained residential unit" and their substitution with the words "Without planning permission, the material change of use of a detached garage to a separate self-contained residential unit" in 3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL; and*
 - *the deletion of the words "(1) Cease the use of the detached garage building, shown outlined in blue on the plan labelled 'A' attached to this Notice, for residential purposes as a self-contained dwelling" and their substitution with the words "(1) Cease the use of the detached garage shown outlined in blue and labelled 'A' on the plan attached to this Notice as a self-contained residential unit" in 5. WHAT YOU ARE REQUIRED TO DO.*

- *the deletion of the words*
 - “(2) Remove from the garage building all the floor and wall mounted kitchen units including the fixtures and fittings.*
 - (3) Remove from the garage building all the kitchen appliances including, cooker and hob, microwave, refrigerator.*
 - (4) Remove from the garage building the kitchen water supply and the internal and external waste pipes attached to the kitchen sink.*
 - (5) Remove from the garage building the fitted bathroom units, toilet, shower and wash basin.*
 - (6) Remove from the garage building the shower room water supply and the internal and external waste pipes attached to the toilet, shower and wash basin.*
 - (7) Remove from the outbuilding the beds.*
 - (8) Remove from the land and dispose of all rubble, waste materials and debris in relation to compliance with Steps (2), (3), (4), (5), (6), and (7) above.”*

and their substitution with the words

- “(2) Remove from the detached garage all the floor and wall mounted kitchen units including the fixtures and fittings; all the kitchen appliances including, cooker and hob, microwave, refrigerator; and the kitchen water supply and the internal and external waste pipes attached to the kitchen sink.*
- (3) Remove from the detached garage the fitted bathroom units, toilet, shower and wash basin; and the shower room water supply and the internal and external waste pipes attached to the toilet, shower and wash basin.*
- (4) Remove from the land and dispose of all rubble, waste materials and debris arising from Steps (2) and (3) above.”*

in 5. WHAT YOU ARE REQUIRED TO DO.

Subject to the correction and variations, the appeal is allowed, the EN is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act for the development already carried out, namely the conversion of a detached garage to a separate self-contained residential unit at 16 Perham Way, London Colney, St Albans AL2 1LB as shown on the plan attached to the EN and subject to the following condition:

- 1) The separate self-contained residential unit shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 16 Perham Way, London Colney, St Albans AL2 1LB.

Matters Concerning the Notice

2. The alleged breach of planning control fails to specify that a material change of use of the land has occurred, which is the act of development. However, I can correct the alleged breach to include the words “...*the material change of use*...” without causing injustice to either party, as it is clear from the description what the alleged breach of planning control consists of.

3. The alleged breach of planning control is described differently within both the EN's requirements and within the matters which appear to constitute the breach of planning control. It is necessary for the alleged breach to be described consistently throughout the EN. As the variation is for precision, I am satisfied that I can vary the requirements without causing injustice to either party.
4. The steps to be taken to remedy the alleged breach of planning control interchangeably refer to the building as a "*detached garage building*", "*garage building*" and an "*outbuilding*", all of which differ from the wording used in the alleged breach. Furthermore, for clarity and conciseness, it is not necessary for the steps to be listed separately. Consequently, I have amalgamated the steps and amended the description of the building so that it is consistent with the alleged breach. I have also varied step (8) to refer to the revised number of steps. I am satisfied I can vary the steps in this manner without causing injustice to either party, as it is required for precision.
5. However, step (7) of the EN's requirements seeks the removal of beds from the outbuilding. Beds are not a fixture or fitting and therefore, this step should be omitted from the EN. I am satisfied that I can do this without causing injustice to the appellant as it is less onerous than the EN's steps. Also, it would not prejudice the Council as the provision of beds within the detached outbuilding did not, by themselves, facilitate the alleged breach.

Preliminary Matters

6. A representative from the Council failed to attend the arranged accompanied site visit. Consequently, I undertook the site visit on an "Access Required" basis. I was able to see everything I needed to enable me to reach a decision.
7. A revised National Planning Policy Framework ("the Framework") has been published since the EN was issued. However, it does not raise any new issues that are determinative to the purposes of the appeal and therefore injustice to the parties does not arise.

Appeal on Ground (b)

8. An appeal under ground (b) is that those matters stated in the EN have not occurred. To succeed on ground (b) it is incumbent on the appellant to demonstrate that, on the balance of probability, the matter(s) alleged have not occurred, as a matter of fact.
9. The appellant asserts that work began to convert the detached garage to habitable accommodation for an elderly relative in early October 2020. They concede that the converted garage accommodation was however rented out to a company for temporary worker accommodation until mid-2022. After which it was occupied by two Ukrainian refugees.
10. Following an investigation by the Council into the alleged material change of use, the appellant asserts that they ceased the use of the former detached garage as an independent residential dwelling. It has subsequently only been used by visiting family and friends, ancillary to the host dwelling. Consequently, at the time the EN was served, the appellant states that the alleged breach was not occurring and therefore, the EN did not need to be served.

11. S174(2)(b) of the 1990 Act is worded in the past tense. Therefore, the question is whether the matter alleged in the breach had occurred by the date of issue of the EN (my emphasis). An appeal on ground (b) cannot succeed simply because the use has now ceased and therefore, the Council was correct to serve the EN.
12. As such, on the balance of probability, the material change of use of the detached garage to a separate self-contained residential unit had occurred as a matter of fact. The appeal on ground (b) therefore fails.

Appeal on Ground (a) and the Deemed Planning Application

13. An appeal under ground (a) is that planning permission should be granted for the matter alleged.
14. The **main issues** are the effect of the development on:
 - a) highway safety;
 - b) the character and appearance of the surrounding area; and
 - c) the living conditions of occupiers of the building, with particular reference to internal and external space, privacy, light and outlook.

Reasons

Highway Safety

15. The host dwelling has three-bedrooms which, according to Policy 40 of the City and District of St Albans District Local Plan Review, adopted 1994 ("LP"), requires two off-street allocated parking spaces. The conversion of the detached garage has displaced one of the host dwelling's off-street parking spaces. Furthermore, the occupation of the self-contained residential unit could result in each occupier having access to a private motor vehicle. As such, the development could result in up to three additional vehicles parking in the surrounding area.
16. At the time of my site visit, parking spaces were available both within designated unallocated parking areas and along the road, and the road does not have any parking restrictions. There was also no evidence of vehicles parked in ways that pose a highway safety issue. While I appreciate this was a snapshot in time and the former detached garage was not inhabited as a self-contained residential unit, it demonstrates that space was available for additional vehicles to park. Furthermore, I have not been directed to evidence to demonstrate that parking within the area is problematic or that vehicles park illegally/dangerously.
17. Consequently, the evidence before me and what I witnessed during my site visit does not lead me to conclude that the development has resulted in an intensification of parking in the surrounding area that has led to highway safety problems.
18. For these reasons, the development does not harm highway safety. It complies with paragraph 116 of the Framework that states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety. While the development does not adhere to the parking standards detailed within LP Policies 39 and 40, LP Policy 39 states that parking requirements may be adjusted to reflect the circumstances of individual developments.

Character and Appearance

19. The appeal site comprises a semi-detached, two-storey dwelling. It forms part of a housing development of similarly designed dwellings, set within comparable sized, rectangular-shaped plots. Each dwelling is set back from the road by a small front garden and a driveway.
20. Positioned to the side of the host dwelling is a detached, brick built former garage that was constructed at the same time as the host dwelling. The garage door has been replaced with a window, that is of a similar appearance to the host dwelling's windows. Consequently, the alterations to the external appearance of the building complement the character and appearance of the host dwelling and do not detract from the street scene.
21. However, the self-contained residential unit is significantly smaller in scale than the other dwellings in the surrounding area and consequently, it appears incongruous. It is sited in proximity of the host dwelling and forms the boundary with a neighbouring property, resulting in a cramped and contrived appearance. Furthermore, the rear garden is shared between the host dwelling and the development and it has no off-street parking, which is uncharacteristic compared with the surrounding dwellings.
22. For these reasons, the development harms the character and appearance of the surrounding area. It conflicts with Policies 11, 69 and 70 of the LP which, amongst other things, seek to ensure that development takes account of the scale and character of its surroundings in terms of height, size, scale, density or plot to floorspace ratio.
23. The Council's first reason for issuing the EN also refers to LP Policy 72. However, this policy concerns extensions to buildings in residential areas, which is not applicable to the breach of planning control.

Living Conditions

24. The self-contained residential unit comprises an open-plan living/kitchen/dining area with a separate shower room to the ground floor. A staircase leads to a bedroom on a mezzanine floor which is open to the living/kitchen/dining area.
25. There is one window that serves the open-plan living/kitchen/dining area. The window's outlook is adversely affected by the proximity and forward projection of both the host dwelling and a neighbouring property's boundary fence. There are no windows to the shower room or mezzanine bedroom. Consequently, occupiers of the development have a substandard outlook and insufficient daylight and sunlight which adversely affects their living conditions.
26. The window is immediately adjacent to the host dwelling's driveway and directly faces towards the road. Furthermore, the mezzanine bedroom is open to the open-plan living area below. As such, the privacy of the occupiers of the living accommodation is significantly affected by the users of the driveway and road.
27. The development has a very small floor area, and the ceiling height of the bedroom is impeded by the building's sloping roof. I appreciate that the LP policies do not refer to the Technical Housing Standards – Nationally Described Space Standard, published 2015 ("NDSS"). However, they are a material consideration to which I should have regard.

28. The Council assert that the development has an internal floor area of 21 square metres. This is significantly below the NDSS's minimum internal floor area of 58 square metres for a one bedroom, two person, two-storey dwelling. Furthermore, the Council state that the development also fails to comply with the NDSS's figures for minimum bedroom floor area and width, minimum height standards, and minimum storage space. These figures have not been disputed by the appellant. Consequently, the living conditions of future occupiers of the development are significantly adversely affected due to the lack of internal space.
29. The rear garden of the host dwelling is shared with the development, with no boundary treatments subdividing the appeal site into separate plots. Consequently, future occupiers of the development do not have access to private garden space which adversely affects their living conditions.
30. For these reasons, the living conditions of the occupiers of the development are significantly harmed, with particular reference to internal and external space, privacy, light and outlook. It conflicts with Policy 70 of the LP which, amongst other things, seeks to achieve sunlight and daylight requirements and the size of private gardens should reflect the number of people for which the dwelling has been designed. It also conflicts with paragraph 135(f) of the Framework that seeks to create places that have a high standard of amenity for existing and future users.
31. The Council's second reason for issuing the EN also refers to LP Policies 12 and 60. However, Policy 12 concerns ancillary residential accommodation rather than a self-contained residential unit, which is not applicable to the breach of planning control. Furthermore, Policy 69 is concerned with design and layout rather than the effect of a development on the living conditions of occupiers.

Other Matters – Fallback Scheme

32. I am required to determine the ground (a) appeal in accordance with the development plan unless material considerations indicate otherwise.
33. The requirements of the EN can seek the removal of works that do not amount to "*development*" if they facilitated the breach of planning control. As such, once the appellant has complied with the EN's requirements including the removal of the kitchen and shower room fixtures, fittings and plumbing, they could reinstate these fixtures and fittings and use the former detached garage as accommodation that is ancillary to the host dwelling without the need for planning permission.
34. The appellant makes it clear that the former detached garage is currently being used as ancillary accommodation for visiting family and friends and in the future would be used to accommodate dependents. As such, the use of the former detached garage as ancillary living accommodation is a realistic fallback position that has a real prospect of being implemented should I dismiss the appeal under ground (a).
35. Furthermore, the appellant has asserted that they are willing to accept a condition that restricts the former detached garage to be used as ancillary living accommodation. The Council has also suggested the use of a similar condition should I be minded to allow the ground (a) appeal.
36. Consequently, the fallback position is a material consideration sufficient to outweigh the conflict I have identified with the development plan.

Conditions

37. I have had regard to the conditions suggested by the Council and the tests for conditions set out within the Framework. As previously stated, a condition is necessary to control the use of the detached garage to ancillary accommodation associated with the host dwelling. However, I have amended the Council's suggested condition in the interests of clarity, precision and enforceability.
38. The Council's second and third suggested conditions refer to the removal of permitted development rights under Schedule 2, Part 1, Classes A, B, C, D, E, G and H of the Town and Country Planning (General Permitted Development) (England) Order 2015 in the interests of residential amenity and the character and appearance of the surrounding area.
39. The Planning Practice Guidance¹ states that the removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. Furthermore, the detached garage would be restricted to be ancillary to the host dwelling by suggested Condition 1 and therefore, it would not be a self-contained residential unit. Consequently, it is not necessary or reasonable to impose these suggested conditions.

Conclusion on Ground (a) and the Deemed Planning Application

40. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the EN as corrected and varied, subject to a condition. The EN will be corrected, varied and quashed.
41. In these circumstances the appeal on ground (f) does not fall to be considered.

A Berry

INSPECTOR

¹ Planning Practice Guidance Paragraph: 017 Reference ID: 21a-017-20190723