



Appeal Decisions

Site visit made on 3 July 2025

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 July 2025

Appeal A Ref: APP/N1540/C/24/3345957

15 Canons Gate, Harlow CM20 1QE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Sajmir Zeqaj on behalf of Your Home Residential Limited against an enforcement notice issued by Harlow District Council.
 - The enforcement notice was issued on 10 May 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the conversion of a single dwellinghouse into 2 flats.
 - The requirements of the notice are:
 1. Reinstate the dwellinghouse back to a single dwelling.
 - The period for compliance with the requirements is 8 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/N1540/W/24/3345614

15 Canons Gate, Harlow CM20 1QE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Sajmir Zeqaj on behalf of Your Home Residential Limited against the decision of Harlow District Council.
 - The application Ref HW/FUL/24/00004, dated 3 January 2024, was refused by notice dated 11 April 2024.
 - The development proposed is described as "Retrospective planning for a conversion of existing property into 2 flats".
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Decisions

1. **Appeal A:** It is directed that the enforcement notice is:
 - corrected by deleting the first requirement, under section 5 (what you are required to do) and replacing it with: "(i) Cease the use of the property as separate flats and restore the property to its former condition before breach occurred."
2. Subject to the correction, the appeal is allowed, the enforcement notice is quashed, 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 development already carried out, namely the conversion of a single

dwellinghouse into two flats at 15 Canons Gate, Harlow CM20 1QE referred to in the notice, subject to the condition in the attached schedule.

3. **Appeal B:** The appeal is allowed for the conversion of existing property into two flats at 15 Canons Gate, Harlow CM20 1QE in accordance with the terms of the application ref: HW/FUL/24/00004, subject to the condition in the attached schedule.

Procedural matters concerning the Notice

4. I was unable to undertake an internal inspection of the appeal site (the site) as the appellant was unable to provide access for the pre-arranged site inspection on 3 July 2025. However, I was able to view the site and the proposed development from the front and rear of the property from neighbouring land. Therefore, this appeal will be determined on the basis of the evidence and the plans before me, which is considered appropriate given that pre-existing, existing and proposed plans, which includes the internal layout of the site, have been submitted.
5. The appellant states that the notice is a nullity since he is unable to understand what development he is alleged to have done that constitutes a breach of planning control, given that any internal operational changes are immune from enforcement action, and what he must do to remedy the breach. In particular he states that the allegation (section 3) 'attacks' the creation of 2 dwellinghouses, whereas section 5 (what you are required to do) suggests there is only one dwellinghouse to reinstate back to a dwelling.
6. In relation to section 3 of the Notice, this is clear in so far as the allegation relates to the "conversion of the single dwellinghouse into 2 flats". Section 5 of the Notice in relation to the requirements is poorly worded. Nevertheless, section 4 of the Notice (reasons for issuing the notice) also states the harms that have resulted from the conversion of the dwelling into 2 flats, and so looking at the Notice as whole it is clear that the requirements seek to restore the property to its former condition as single dwellinghouse and thus cease the use as flats.
7. I also note that the Notice follows the appellant's refusal of planning permission¹ (Appeal B) for "*retrospective planning for a conversion of existing property into 2 flats*". Given that the appellant had already carried out the unauthorised works to convert the property into two flats prior to making his planning application, it is clear what he must do to remedy the breach in terms of restoring the property to its former condition (as a single dwellinghouse).
8. Furthermore, for Appeal B, the appellant has submitted a pre-existing floor plan which shows the layout of the property as a single dwellinghouse, prior to the creation of separate flats, and so both parties are clearly aware of the former lawful layout of the property. Therefore, the poor wording of the requirements does not render the notice unclear. For clarity, it is necessary to correct the requirements but retain the effect of what the Council is trying to achieve. This would not cause injustice, and I can therefore use my powers under the provisions of s176(1)(a) of the Act to make this correction.

¹ Council ref: HW/FUL/24/00004 refused on 11 April 2024.

Appeal on ground (a), the deemed planning application (DPA) & Appeal B

Preliminary

9. The Development the subject of **Appeal A**, and the DPA relates to the development as built, which is the conversion of the property into two two-bedroom flats. No external alterations appear to be carried out to facilitate the conversion of the property into two flats.
10. The planning application, the subject of **Appeal B**, differs in so far as it seeks planning permission for a revised internal layout with the creation of one studio flat at ground floor level and a one-bedroom residential unit on the upper floors. The proposed drawings also show a new door replacing an existing window at first floor level together with a new walkway and an external staircase and associated balustrade from first floor to the rear garden to provide amenity space for occupiers of the first floor flat. The proposed plans also show the subdivision of the rear garden to facilitate this. Given the material differences proposed between the respective developments (existing and proposed) the Council's concerns, and thus the main issues, are different for each appeal.

Main Issues

11. Therefore, the main issues in Appeal A are:
 - Whether the occupiers of the existing flats enjoy satisfactory living conditions, having regard to the layout, floor space and the provision of amenity space; and
 - Whether the development is acceptable, having regard to car parking.
12. The main issue in Appeal B is the effects of the development on the living conditions of the occupiers of 16 Canons Gate and future occupiers of the ground floor flat at 15 Canons Gate with particular regard to privacy.

Reasons

Appeal A: Whether the occupiers of the two flats enjoy satisfactory living conditions - layout, floor space and the provision of amenity space

13. The appeal site relates to the two-storey plus loft conversion mid-terraced property which has been converted into two self-contained flats, with a two-bedroom flat on the ground floor and a two-bedroom flat on the first and second floors.
14. To ensure that new housing development provides an acceptable level of residential quality and amenity the Governments technical housing standard-nationally described space standards, 2015 (GTHS), requires 2-bedroom three person units to provide 61 sq.m for 1 storey dwellings and 70 sq.m for 2 storey dwellings. The Harlow Design Guide Addendum Supplementary Planning Document, 2021 requires (Harlow SPD) 20sq.m of amenity space for flats.
15. However, contrary to these standards, the two-bedroom ground floor flat only provides 55sq.m of internal space and the first and second floor two-bedroom unit only provides 63 sq.m, well below the required minimum space standards. In addition to the substandard internal floor space, the upper floor flat, as built provides no external amenity space for occupiers of this unit. In particular,

both main living/dining and kitchen areas for both flats appear limited and cramped with a clear lack of built in storage and circulation space for occupiers of these units. The combination of lack of outside amenity space for occupiers of the upper floor flat, exacerbates this harm. Therefore, as built, both flats fail to provide a satisfactory living environment in terms of layout and floorspace, which feels cramped, claustrophobic and oppressive for occupiers of these units.

- 16.I therefore conclude that the unauthorised use of the property harms the living conditions for the occupiers of these flats, with particular regard to the internal layout, floorspace and amenity space in conflict with Policy PL2 of the Harlow Local Development Plan, 2020 (HDP), the GTHS and the Harlow SPD. Amongst other things, this seeks to achieve the aforementioned standards and seeks to preserve and enhance the levels of amenity of existing and future occupants and takes into account the need for high quality and useable amenity space.

Appeal A: Whether the development is acceptable, having regard to car parking

17. Policy IN3 of the HDP states that vehicle parking must be provided in accordance with the adopted Essex Vehicle Parking Standards (EVPS), unless otherwise indicated elsewhere in the Local Plan and/or supporting documents. EVPS requires two-bedroom dwellings to provide 2 spaces per dwelling. The Council raised an objection since the site only provides sufficient space for one off-street parking spaces, when taking into account space required for refuse and recycling facilities. Therefore, the development results in an under provision of three car parking spaces. The Council also advise that the existing on-street parking pressure in the area is already high.
18. I also observed during my site visit on a weekday that there was relatively high occupancy of parked vehicles on-street in the vicinity of the site, and the appellant has provided no contrary evidence that on-street parking demand is not high.
- 19.I therefore conclude that the development is unacceptable, having regard to car parking, in conflict with Policy IN3 of the HDP and the EVPS, which seek the aforementioned aims.

Appeal B: The living conditions of the occupiers of 16 Canons Gate and future occupiers of the ground floor flat at 15 Canons Gate with particular regard to privacy

20. The Harlow SPD requires that development of new dwellings and additions or alterations to existing dwellings should ensure a good level of privacy inside buildings and within private outdoor space. I appreciate that the existing gardens within the terrace are overlooked already by the existing windows in the rear elevation of properties along the terrace. However, the use of the flat roof as a walkway and the new external staircase close to the rear windows and rear garden of 16 Canons Gate and the ground floor flat of 15 Canons Gate coupled with the lack of sufficient screening, results in a greater degree of overlooking into the neighbouring gardens and rear windows at Nos 15 and 16.
21. The appellant suggests that any direct overlooking could be overcome by the installation of a 2m high fence. Whilst such a fence would prevent direct overlooking from garden level, this would not be high enough to prevent direct overlooking when walking along the flat roof of the extension or walking up and

down the staircase. Therefore, this would not overcome the overlooking issues raised above.

22. Consequently, the proposed development has a harmful effect on the living conditions of neighbouring occupiers at 16 Canons Gate and future occupiers of the ground floor flat at 15 Canons Gate with particular regard to privacy, contrary to Policy PL2 of the HDP. Amongst other things this states that development which preserves or enhances the level of amenity of existing and future occupants and neighbours in the local area will be supported and requires that privacy and overlooking shall be taken into account when assessing the acceptability of development on amenity.

Other matters

23. I appreciate that the Council has not raised any objection to the other criteria, on amenity listed under Policy PL2. However, a lack of harm in these respects is a neutral consideration that does not weigh in favour of the proposal, and for that reason does not outweigh my conclusions on the main issues above.

Alternative scheme

24. Section 177(1) of the Act allows me to grant planning permission in respect of the matters stated in the Notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the Notice relates.
25. As outlined above, the appellant has submitted further proposed drawings² (proposed under Appeal B) which they consider would overcome the harms in relation to the layout, floorspace, amenity space and parking. This alternative scheme also proposes to convert the property into two flats but with a revised internal layout comprising one studio flat at ground floor level and a one bedroomed residential unit at first and second floor level. The proposed drawings also show a new door replacing an existing window at first floor level together with a new walkway and an external staircase from first floor to the rear garden to provide amenity space for occupiers of the first floor flat. I consider that this alternative scheme, comprising the conversion of the property into two flats is part of the matters alleged and so I can therefore consider it.
26. The revised layout as shown on drawing PL04 and PL04 Rev. A improves the internal layout and floorspace of each flat, with 55sqm provided for the ground floor studio and 63sq.m provided for the first and second floor one bedroom flat, in excess of the 58 sq.m of internal space required by the GTHS.
27. With regard to parking, Essex Highways has been consulted with the plans submitted under Appeal B and confirm they have no objection to the revised layout, given that the changes proposed to the dwelling mix result in a lesser demand for parking. I therefore agree that the revised layout overcomes the harms identified under Appeal A with regard to layout, floorspace and parking.
28. However, I have found above that the proposed external staircase and walkway shown on these revised drawings (Appeal B) results in overlooking and loss of privacy to the future occupiers of ground floor flat of 15 Canons Gate and existing occupiers of 16 Canons Gate.

² Drawings no PL04 and PL05 and PL04 Rev. A

29. The appellant suggests a lesser step would be to omit the proposed external alterations shown on the proposed scheme (the replacement door, walkway and external staircase), thereby also omitting the proposed subdivision of the rear garden. Such a scheme would overcome the harm caused in relation to loss of privacy. I appreciate that this would result in no provision for amenity space for the occupiers of the upper floor unit. However, this revised scheme is now for a one-bedroom two-person unit only (rather than a two-bedroom family unit as built), which also proposes ample internal floor space for future occupiers. In addition, the flat is within close proximity of nearby public open space at Ash Tree Field Recreation Ground. For these reasons, I am satisfied that the lack of amenity space for the upper floor one bedroom flat only, subject to the revised internal layouts shown on PL04, would not be detrimental to future occupiers of this dwelling.
30. However, no proposed floor plan and elevation drawings have been submitted as part of this appeal showing the revised internal layouts without the new external door, external walkway and external staircase. Nevertheless, further revised plans showing the omission of these external alterations can be secured by condition. Subject to the submission and approval of revised proposed drawings (which shows the revised internal layout proposed, without the proposed external alterations) being agreed and then implemented within a strictly defined time frame agreed by the Council, the proposed 'alternative scheme' would not result in any harmful effect on the living conditions of neighbouring occupiers at 16 Canons Gate and future occupiers of the ground floor flat at 15 Canons Gate with regard to privacy. This would accord with Policy PL2 of the HDP.

Conditions

31. Condition 1 is imposed is to ensure that details of the revised proposed floor plan and elevation which omits the proposed external walkway and staircase are submitted, approved and implemented to overcome the harm caused to the living conditions for the occupiers of the adjoining properties, with regards to privacy and thus make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of the outstanding detailed matter before the development takes place. The condition will ensure that the development can be enforced against if the required details are not submitted for approval within the period given by the condition, or if the details are not approved by the local planning authority or the Secretary of State on appeal, or if the details are approved but not implemented in accordance with an approved timetable. Should the requirements of the condition not be met in line with the strict timetable, then the planning permission falls away.
32. No further conditions have been suggested by the Council, and as the proposed conversion of the property into two flats is acceptable in all other respects there is no need for any.

Conclusions

33. For the reasons given above I conclude that the appeals succeed on ground (a) and for Appeal B. I shall grant planning permission for the conversion of a single dwellinghouse into two flats, subject to a condition. The enforcement

notice will be quashed, and the appeal on grounds (f) (and (g) do not therefore fall to be considered.

R Satheesan

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The conversion of the property into two flats hereby permitted must cease and all materials brought onto the land for the purposes of such use shall be removed within 30 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme for a revised proposed floor plan and elevation, which maintains the proposed internal layout shown on PL04 but omits the external staircase, walkway and the replacement external door at the rear of the property shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.