



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/24/3355349

39 Watersmeet, Harlow, CM19 4QS

- 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 Ugur Soyler against an enforcement notice issued by Harlow District Council.
 - The enforcement notice was issued on 17 October 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised use of the outbuilding as a self-contained residential unit.
 - The requirements of the notice are:
 1. Cease the use of the outbuilding as a self-contained residential unit.
 2. Remove all kitchen facilities such as sinks, oven and hob as well as fridge, washing machine and all residential paraphernalia associated with use of the outbuilding as a self-contained residential unit.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (b) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B Ref: APP/N1540/D/24/3353090

39 Watersmeet, Harlow CM19 4QS

- 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 Ugur Soyler against the decision of Harlow District Council.
 - The application Ref HW/HSE/24/00266, dated 9 July 2024, was refused by notice dated 3 September 2024.
 - The development proposed states "to use existing rear garden outbuilding as a separate dwelling."
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Decisions

Appeal A:

1. It is directed that the enforcement notice is:
 - varied by deleting the words "3 months" within section 6 (time for compliance) and its replacement with "10 months".
2. Subject to this variation, the appeal is dismissed, and the enforcement notice is upheld.

Appeal B:

3. The appeal is dismissed.

Appeal A: The appeal on Ground (b)

4. To succeed on this ground, the onus is upon the appellant to demonstrate on the balance of probabilities that the allegation has not occurred as a matter of fact.
5. The allegation relates to the unauthorised use of the outbuilding as a self-contained residential unit. The rear garden of the main dwelling at 39 Watersmeet, contains a number of outbuildings, the largest of these is the subject of this appeal.
6. The appellant states that although the outbuilding is being residentially occupied, the building provides residential accommodation which is incidental to the host dwelling, and that it is currently occupied by the appellant's daughter and partner. He also states that there is no subdivision of the rear garden. He is therefore not disputing that residential occupation has taken place but rather that the allegation is wrong to suggest that the building has been used as a self-contained residential unit.
7. However, the Council received a complaint in June 2024 stating that the outbuilding was being used as a separate residential unit. An Officer site visit was carried out on the 1 July 2024. The owners of the site advised the Council that the outbuilding had been converted to a separate dwelling in April 2024 with the installation of a kitchen which included hob, oven, washing machine, a living Room, a bedroom and a shower room. The Officer also noted that there was a separate access in the rear boundary wall on Paringdon Road, and as such the building could be accessed independently from the main dwelling.
8. Furthermore, I saw at my site visit, that the building contains a living and dining area, a bedroom, a shower room and a kitchen with various white goods including a hob, cooker and extractor, fridge freezer, washing machine and dishwasher. The residential building has the distinctive characteristics of dwellinghouses that being the ability to afford those who use them, the facilities required for day-to-day private domestic existence. Whilst the occupiers of the building are related to the appellant (his daughter and partner), they are adults, and the evidence does not indicate that they are living with the appellant and sharing essential facilities or co-habiting.
9. The residential unit appears more than an annex to the main house. I also consider that given the facilities provided within the building, the fact that it is occupied by individuals on what would appear from the evidence to be an independent basis, this is a dwelling within a separate and distinct planning unit. My thoughts are reaffirmed by the appellant's own evidence which include their own refused planning application dated 9 July 2024. The application form describes the proposed works as *"We got permission to build a gym house. The house is now being used as a separate residential unit since March."* The application form also stated that the development was started on 5 June 2023 and that it was completed on 28 December 2023.
10. In addition, the appellant's evidence put forward under their ground (g) appeal states that the period for compliance does not allow sufficient time for the appellant's daughter and partner to finance and identify alternative accommodation. This again suggests that the occupiers are living independently from the main dwelling.

11. Therefore, based upon all the evidence before me, the appellant has not demonstrated, on the balance of probabilities, that the development as alleged has not occurred.
12. Accordingly, the appeal on ground (b) must fail.

Appeal A: The appeal on Ground (g)

13. The appeal on this ground is that any period specified in the notice falls short of what should reasonably be allowed. The appellant asks that the time for compliance is extended from 3 to 12 months, and states that the period does not allow sufficient time for the appellant's daughter and partner to finance and identify alternative accommodation.
14. In my view 10 months would strike a more reasonable and proportionate balance in this instance which would allow time for current occupiers to find alternative accommodation as well as carry out the necessary remedial works, which do not appear complex. I shall therefore amend the period to 10 months for compliance with the notice.
15. The appeal succeeds on ground (g), and I shall vary the notice accordingly.

Appeal B:

Preliminary

16. The appellant states that the purpose, function and use associated with the appeal proposal is as a residential annexe, incidental to the primary use of the host dwelling, and also highlights that the application form relates to a householder application form. Notwithstanding this, the planning application describes the proposed work as "We got permission to build a gym house. The house is now being used as a separate residential unit since March." The Council's decision notice similarly describes the development as "Retrospective permission to use existing rear garden outbuilding as a separate dwelling." The appeal form also uses this same description.
17. It is therefore clear that the appellant applied for planning permission for the use of the garden outbuilding as a separate residential unit and the Council determined the application on that basis. I have therefore similarly determined this appeal on that basis.

Main issues

18. The main issues are:
 - Whether the unauthorised use results in any adverse effects on the character of the area;
 - The effect of the unauthorised use on the living conditions for current/future occupiers of the development with regard to layout, floor space and amenity space;
 - The effect of the unauthorised use on the living conditions for the occupiers of the new separate dwelling and the main dwelling at 39 Watersmeet, with particular regard to privacy; and
 - Whether the development is acceptable, having regard to access, servicing and car parking.

Reasons

Character of the Area

19. The property relates to an outbuilding in the rear garden of a two-storey semi-detached dwelling house. The surrounding area is predominantly residential in character with similar semi-detached properties with reasonable sized front gardens and spacious rear gardens, many of which contains outbuildings.
20. The Council consider that, whilst outbuildings are common feature in the area, no separate dwellings exist in back gardens, and therefore the development is out of keeping with the established residential layout, form and character.
21. The sub-division of garden plot, and the resulting over-intensive use of the site, has the potential to harm the established residential character and quality of an area. This can be through the physical alterations undertaken to achieve the accommodation or from a change in the character of the area due to a more intensive residential occupation and the increased number of bins at the front of the property, and the transiency of occupation, which can undermine a sense of community and the upkeep of properties.
22. However, I note that the current outbuilding is of a size and scale similar to other outbuildings in the rear gardens in the locality. On this occasion, the change of use the outbuilding to a self-contained dwelling, has been achieved with minimal changes to the external alteration of the building. Based on the evidence before me, the outbuilding retains little outward indication that it has been converted to form a self-contained dwelling and has retained the physical appearance and size of the original outbuilding, prior to its change of use, and to other outbuildings nearby.
23. Furthermore, there was not an unsightly proliferation of bins or any other physical manifestation of an over-intensive use of a property, which could be considered to harm the residential character of the area, such as a spread of aerials and other paraphernalia and clutter. Additionally, the rear garden has not been subdivided. As such, there is little before me to suggest the self-contained use of the outbuilding has resulted in any harm to the character of the area.
24. I conclude on the first main issue that the appeal scheme preserves the character of the area, in accordance with Policies PL1 and H2 of the Harlow Local Development Plan, 2020 (HDP) and the Harlow Design Guide SPD (Design SPD). Amongst other things, these require that all development protects, enhances or improves local distinctiveness without restricting style and innovation, whilst taking account of local character and context, including patterns of development and urban form and supports development that does not have an unacceptable adverse effect on the character of the locality and the appearance of the street scene.

The living conditions for current/future occupiers of the development with regard to layout, floor space and amenity space

25. The outbuilding is occupied by two adults and has been laid out with a separate living area, bedroom, a fully fitted kitchen and a shower room. 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 1-bedroom two person units

to provide 50 sq.m for 1 storey dwellings. The Harlow Design Guide Addendum Supplementary Planning Document, 2021 (Harlow SPD) requires 50sq.m of amenity space for one-bedroom new dwellings.

26. However, contrary to these standards, the self-contained dwelling is well below the 50.sqm of floor space required. In particular, the main living/dining areas for appears limited and cramped with a clear lack of built in storage and circulation space for occupiers of this separate dwelling. In addition to the substandard internal floor space, there is no separate provision for private amenity space, with the garden space being shared with the main house. The combination of lack of outside amenity space for occupiers of the new separate dwelling, exacerbates this harm. Therefore, the new separate dwelling fails to provide a satisfactory living environment in terms of layout, floorspace and amenity space which feels cramped, claustrophobic and oppressive for occupiers of this dwelling.
27. I therefore conclude that the development harms the living conditions for the occupiers of the separate dwelling, 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.

Living conditions –privacy for occupiers of the dwelling at 39 Watersmeet and the new separate dwelling

28. 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.
29. I appreciate that the existing gardens within the terrace are overlooked already by the existing windows in the rear elevation of properties along the road. Nevertheless, the new dwelling contains one window which faces towards and is in close proximity to the rear garden and windows of the main dwelling at No 39. The position of this window, coupled with the lack of separation or screening from the main dwelling results in significant and additional intrusive overlooking to occupiers of the new separate dwelling and the dwellinghouse at No 39, which harms their living conditions.
30. I therefore conclude that the unauthorised use harms the living conditions of the occupiers of the new separate dwelling and the dwelling at 39 Watersmeet, with particular regard to privacy, in conflict with 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.

Whether the development is acceptable, having regard to access, servicing and car parking

31. 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 plus dwellings to provide 2 spaces per dwelling, and that 1-bedroom dwellings should provide one space. The Council raised an objection since the site only provides sufficient space for two off-street parking spaces, and therefore, the development results in an under provision of one car parking space for the new separate dwelling. Furthermore, no details have been provided explaining how additional waste and recycling storage facilities or servicing for the new separate dwelling would be provided, to cater for the increased demand resulting from two additional adults.

32. An additional household, comprising two adults would be expected to result in an increase in parking demand, comings and goings of visitors and deliveries, independent of the main household. I also observed during my site visit on a weekday that there was relatively high occupancy of parked vehicles on-street along the road, and the appellant has provided no contrary evidence that on-street parking demand is not high.
33. I therefore conclude that the development is unacceptable, having regard to access, servicing and car parking, in conflict with Policies IN2, IN3 and H2 of the HDP and the EVPS. Amongst other things, this requires that infill development and the subdivision of garden plots, requires that off-street parking and access arrangements can be provided for both existing and proposed dwellings, in accordance with the adopted Harlow Design Guide Supplementary Planning Document (SPD) and adopted Vehicle Parking Standards, and the development would make adequate provision for refuse storage and collection.

Other matters

34. The appellant suggests planning permission could be granted with a condition which restricts the use of the outbuilding as ancillary and incidental to the host dwelling. However, the planning application seeks permission for a "separate dwelling." As such, this condition would be contrary to and inconsistent with the development applied for. I am therefore unable to consider this matter further.

Conclusion Appeal B

35. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The development harms the living conditions for the occupiers of the separate dwelling, with particular regard to the internal layout, floorspace, amenity space and privacy and harms the living conditions of the existing occupiers of 39 Watersmeet, with particular regard to privacy. I have also found that the development is unacceptable, having regard to access, servicing and car parking in conflict with the development plan taken as a whole. None of the other matters raised by the appellant, including the benefits of providing this additional residential accommodation outweighs this harm. Therefore, there are no material considerations that would lead me to a decision other than in accordance with the development plan in this case.
36. For the reasons given and with regard to all other matters raised, I conclude that Appeal B should be refused.

Conclusions

37. **Appeal A:** For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation.

38. **Appeal B:** For the reasons given above, and having regard to all other matters raised, I conclude that Appeal B should be dismissed.

R. Satheesan

INSPECTOR