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## Appeal Decisions

Site visit made on 7 May 2025

by **E Griffin LLB Hons**

an Inspector appointed by the Secretary of State

Decision date: 16 July 2025

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### **Appeal A Ref: APP/Q5300/C/23/3318625**

#### **111-113 Silver Street, London N18 1RG**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Gurgur Property and Appeal B is made by Bayram Gurgur against an enforcement notice issued by the Council of the London Borough of Enfield.
  - The notice was issued on 24 February 2023.
  - The breach of planning control as alleged in the notice is 'without planning permission, the unauthorised material change of use of the Premises into four separate units of accommodation.'
  - The requirements of the notice are
    1. Cease the use of the Premises as 4 separate units of accommodation
    2. Revert the unauthorised units of accommodation created on the first floor above the commercial premises into 1 dwelling.
    3. Revert the entrance into first floor of the premises to where it was prior to the unauthorised conversion.
    4. Revert the unauthorised units of accommodation created to the rear of the ground floor into space ancillary to the ground floor commercial unit
  - The period for compliance with the requirements is 3 months.
  - The appeal is proceeding on the ground set out in section 174(2)(a) 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/Q5300/C/23/3319215**

#### **111-113 Silver Street, London N18 1RG**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
  - The appeal is made by Bayram Gurgur against an enforcement notice issued by the Council of the London Borough of Enfield.
  - The notice was issued on 24 February 2023.
  - The breach of planning control as alleged in the notice is 'without planning permission, the unauthorised erection of a rear extension (outlined in blue on the attached plan for identification purposes) to the rear of the Premises.'
  - The requirements of the notice are
    1. Remove the rear extension (outlined in blue on the plan for identification purposes)
  - The period for compliance with the requirements is 3 months.
  - The appeal is proceeding on the ground set out in section 174(2)(a) 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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## Decisions

### Appeal A

1. It is directed that the enforcement notice is corrected and varied by:
  - i) Deleting the allegation and replacing it with 'Without planning permission, the material change of use of the premises to four flats.'
  - ii) Deleting requirement 1 and replacing it with 'Cease the use of the premises as flats.'

- iii) Deleting requirements 2, 3 and 4 in full.
- 2. Subject to the correction and variations, Appeal A 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.

## **Appeal B**

- 3. Appeal B is allowed and 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 erection of a rear extension at 111-113 Silver Street, as shown on the plan attached to the notice.

## **Preliminary Matters for Appeals A and B**

- 4. Appeal A relates to a material change of use and Appeal B relates to operational development within the same appeal site and are made by the same appellant. The appeals can therefore be dealt with in a single decision letter but as separate appeals.

## **Appeal A**

### **The appeal under ground (a) and the Deemed Planning Application (DPA)**

#### **The Notice**

- 5. The Inspector has a duty to put the notice in order irrespective of the grounds of appeal. The alleged breach of planning control is 'Without planning permission, the unauthorised material change of use of the premises into four separate units of accommodation.' Whilst the appellant has understood the allegation, amending the wording to 'without planning permission, the material change of use of the premises to four flats' provides more clarity without causing injustice to any party. I will amend the allegation accordingly.
- 6. The requirements should flow from the amended allegation. The first requirement needs to be amended to 'Cease the use of the premises as flats' to reflect the amended allegation. It is not appropriate to specify the number of flats as a requirement to cease the use of the premises as four flats could be achieved by ceasing the use of one flat leaving three which is not the intention of the requirement.
- 7. Requirements 2 and 3 require reversion of previous uses after cessation of the unlawful use. However, an enforcement notice cannot require reversion to previous uses as that is a matter for the appellant once the notice has been complied with if the notice is upheld. I will therefore delete requirements 2 and 3. Section 57(4) of the Act provides that where an enforcement notice has been issued in respect of any development of land, planning permission is not required for its use for the purpose for which it could lawfully have been used if that development had not been carried out.
- 8. In seeking to require reversion, it appears that the Council accepts that the previous lawful use of the first floor was as a single flat. In the event of the notice being upheld and complied with, Section 57(4) of the Act enables the appellant to re-instate the previous lawful use if he wishes to do so. The same principle applies

to the ground floor where the Council has referred to reversion to ancillary space to the ground floor commercial unit.

9. Requirement 4 states 'Revert the entrance into first floor of the premises to where it was prior to the unauthorised conversion.' A material change of use allegation can require the removal of works that have facilitated that change of use. However, no specific works are identified as requiring removal. The 'entrance' could refer to the entrance door next to the shop or the internal stairs to the first floor or both. There is also no requirement to remove the existing entrance door, it could be simply locked. This requirement will be deleted in full as cessation of the unlawful use remedies the breach of planning control. I will amend the allegation and the requirements accordingly.

## **Main Issues**

10. The main issues are

- i) the effect of the development on the balance of family sized housing within the Borough
- ii) the effect of the development upon the living conditions of the occupiers of the appeal property with particular regard to internal floor space
- iii) the effect of the development upon the living conditions of residential neighbouring occupiers with particular regard to noise and disturbance
- iv) the effect of the development upon contributing to reducing the causes and effects of climate change

## **Reasons**

11. The appeal site is located in a part of Silver Street characterised by retail units at ground floor level with residential accommodation above. The development consists of four flats, two on the ground floor to the rear of the shop that fronts onto Silver Street and two on the first floor. Access to the flats is from Silver Street through two separate front doors.
12. The flats behind the shop include an extension that is the subject of a separate notice under Appeal B. The ground floor flats which are numbered have a similar layout to each other with both flats having rear access to a very modest outdoor space. At first floor level, the front flat overlooks Silver Street with a second flat at the rear.

### *Family sized housing*

13. Prior to the development taking place, there was a single flat on the first floor rather than two flats. Enfield's Strategic Housing Market Assessment (2010) identified a need for larger family sized dwellings. However the supporting text of Policy DMD5 refers to family units as being 3 bedrooms or more. I have no details about the flat that previously existed at first floor in terms of size or layout to indicate that it had 3 bedrooms. The supporting text refers to uncontrolled intensification of residential uses leading to unacceptable change in the character of established residential areas but the area is of mixed character. I have no information to indicate that the loss of a family unit as alleged by the Council has occurred.

14. I do not therefore find that the development has an effect upon the balance of family housing. The development is therefore not in conflict with Policy CP5 of the Enfield Plan Core Strategy 2010-2025 (2010) (the Core Strategy) and Policy DMD5 of the Development Management Document (DMD) which, amongst other things, seek to ensure a balanced housing supply.

*Living conditions of occupiers*

15. Policy D6 of the London Plan states that housing development should be of high quality design and provide adequately sized rooms with functional layout. Table 3.1 sets out space standards relating to dwellings and minimum gross internal floor area. The plan provided by the appellant shows the internal layout and the Council has provided details of the internal floorspace of the four flats which are 28.76 square metres, 32.17 square metres, 36.72 square metres and 38.64 square metres. The smaller flats are on the first floor.
16. A one bedroom dwelling should provide 39 square metres of floor space although a single bedroom one person dwelling with a shower room rather than a bathroom may be reduced to 37 square metres. However, even allowing for the presence of showers, three of the flats are below 37 square metres of floorspace. In addition, the internal floorspace of the ground floor flats has only been achieved by erection of an extension leaving a very modest sitting out area for ground floor residents. It is also not clear that all of the flats have one occupant as there were two occupants in one of the ground floor flats when the Council conducted a visit.
17. The minimum size of a one bedroom flat with 2 occupants should be 50 square metres. The internal layout of the ground floor flats does also appear contrived with an internal corridor and shower rooms immediately inside the front door. I do therefore find harm to the living conditions of the occupiers of the appeal property with particular regard to internal floor space. The development is therefore in conflict with Policy D6 of the London Plan and CP4 of the Core Strategy which require compliance with defined minimum living standards for residential accommodation.

*Living conditions of residential neighbouring occupiers*

18. The development is located in an area with largely shops at ground level with residential use above. Whilst not identified, any residential neighbouring occupiers are likely to live above the ground floor shops either side of the appeal property. Prior to the development taking place, there was a larger flat on the first floor of the appeal property with associated comings and goings. It is not clear what was occurring on the ground floor behind the shop although previous use as a betting shop is referred to in the documentation provided by the Council.
19. The location of the development on a busy street in mixed use is unlikely to encourage use of vehicles either by the occupiers of the one bedroom flats or their visitors. I have no evidence that comings and goings in terms of vehicle movements and noise have increased compared to what was occurring prior to the development taking place. I do not therefore find that the development results in increased activity and additional vehicle movements affecting amenities of the residential neighbouring occupiers of the appeal site. The development is therefore not in conflict with Policy DMD5 which, amongst other things, states that development should not lead to an unacceptable level of noise and disturbance for adjoining occupiers.

### *Climate Change*

20. Policies CP20 and CP21 of the Core Strategy seek to ensure, where possible via retrofitting processing, existing developments address the causes and effects of climate change by demonstrating overall energy and water efficiency. I have no information from the appellant as to how whether it is possible to retrofit the development to meet these aims of energy and water efficiency. In the absence of that information, I cannot conclude that the development does comply with the aims of Policies CP20 and CP21 of the Core Strategy which collectively seek to reduce the effects of climate change.

### **Conclusion on ground (a)**

21. I have not found harm arising from effect of the development upon the living conditions of neighbouring occupiers. I have not found that the development does the effect of the development on the balance of family sized housing within the Borough. However, I am not able to conclude that the position with regard to climate change has been addressed satisfactorily. I have also found harm arising from the effect of the development upon the living conditions of the occupiers of the appeal property with particular regard to internal floor space.
22. The development is therefore in conflict with the development plan as a whole and there are no material considerations that indicate that the development should be determined other than in accordance with the development plan. The appeal under ground (a) is dismissed.

### **Other Matters**

23. The Council has referred to the appeal property not meeting Lifetime Home Standards and cites Policy CP4 of the Core Strategy. The policy states that all new homes should be built to Lifetime Homes standards and achieve a borough wide target of 10% of all new homes being suitable or easily adaptable for wheelchair users. I have no information to show that the Lifetime Homes standards are applicable to this development. However, as I am dismissing the appeal for other reasons, this is not a matter that I need to consider further.

### **Conclusion**

24. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

## Appeal B

### The appeal under ground (a) and the Deemed Planning Application (DPA)

25. Under a ground (a) appeal, the DPA derives from the allegation and planning permission is therefore sought for the erection of a rear extension which is operational development. The extension is in use as part of two flats but that unauthorised use is not part of this allegation but it is addressed under a separate notice which is the subject of Appeal A.
26. The reason for refusal refers to the size, siting and excessive rear projection having an impact upon living conditions. However it is not clear which occupiers the Council considers to be affected when the reasons for the notice refer to 'occupiers of the neighbouring property, 111-113 Silver Street' which is the address of the appeal property not a neighbouring property. I have therefore proceeded on the basis that the Council is alleging both harm to character and appearance of the host building and the area and harm to living conditions of occupiers of the appeal property.

### Main Issue

27. The main issue is therefore (i) the effect of the development upon character and appearance of the host building and the surrounding area and (ii) the effect of the development upon the living conditions of occupiers of the appeal property with particular regard to loss of light, sense of enclosure and outlook.

### Reasons

#### *Character and appearance*

28. The development is a single storey extension at the rear of the appeal site. Properties either side of the appeal site appear to have been extended up to the rear boundary line with buildings on the shared boundaries at both sides. There is also built development on the rear shared boundary of the appeal site. The appellant has referred to nearly all of the properties in this part of Silver Street between No 101 and No 123 having rear extensions. Extending out to the rear is not uncommon and the development to the rear of the host building does not look out of place. The development is not obviously an extension due to its location and appearance as it blends in with the appeal site. The size of the development does not appear to be out of proportion within the existing built development either within or adjacent to the appeal site.
29. For the reasons given, I do not find that the development does harm the character and appearance of the host building. It is not in conflict with Policy DMD37 which, amongst other things, states that development which is inappropriate to its context or which fails to have appropriate regard to its surroundings will be refused.
30. I find Core Policy 30 of the Core Strategy to be less relevant to this appeal than other policies relied upon as it is an overarching policy which focuses upon development in the public realm by supporting other policies.

#### *Living conditions of occupiers of the appeal property*

31. The Council has not provided any evidence to support its view that the development results in a loss of light, sense of enclosure or loss of outlook.

Instead, it refers to the flats on the ground floor not meeting national internal space standards as part of this appeal. However, the extension increases rather than reduces the overall size of the flats. In any event, the doors and windows within the rear elevation means that there is unlikely to be any loss of light for ground floor occupiers particularly in the absence of any information about how the rear of the building looked prior to the development taking place. The presence of surrounding development outside of the appeal site including to the other side of the rear boundary means that outlook and sense of enclosure at ground level was already limited prior to the development taking place. Occupiers on the first floor are unlikely to be affected by loss of sunlight, sense of enclosure, and loss of outlook due to the location of the development at the rear of the ground floor.

32. For the reasons given, and on the evidence before me, I do not consider that the development does harm the living conditions of the occupiers of the appeal property with regard to loss of light, sense of enclosure and outlook. The development is therefore not in conflict with Policy DMD11 'Residential Extensions' in so far as it refers to extensions being permitted if there is no impact upon amenities. However, that policy does appear to relate to development where there is an existing dwelling whose amenities need to be protected prior to an extension being built which is not the case for this appeal. I find no conflict with Policy DMD37, which amongst other things, refers to development not being suitable for its intended function when the development was constructed for ancillary commercial purposes.

### **Conclusion on ground (a)**

33. I have not found harm to the character and appearance of the host building or the surrounding area and I have not found harm to the living conditions of occupiers. I am therefore minded to grant the application for planning permission.

### **Conditions**

34. I have to consider whether or not any conditions are necessary. The unauthorised use of the extension as part of a flat is addressed outside of this appeal. The Council has proposed a condition to prevent any use other than ancillary commercial purposes as the development was originally used in connection with the ground floor commercial unit. However, if the Council considers at any stage in the future that any use other than ancillary to the commercial unit is a material change of use then that is a matter for the Council to investigate. I do not therefore consider it necessary to impose a condition restricting use particularly when the use is not part of the allegation. No other conditions are required when planning permission is being granted for operational development that already exists.

### **Conclusion**

35. For the reasons given above, I conclude that Appeal B succeeds on ground (a). I shall grant planning permission for the development as described in the notice. corrected. The enforcement notice will be quashed.

*E Griffin*

INSPECTOR