



Appeal Decision

Site visit made on 15 July 2025

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 July 2025

Appeal Ref: APP/N5090/C/23/3332540

74 Brent Park Road, London NW4 3HR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Stephen Cookey against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice was issued on 25 September 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the rear garden outbuilding to self-contained residential accommodation.
 - The requirements of the notice are: 1. Permanently remove all cooking facilities from the outbuilding including the kitchen units, sinks, cookers and food preparation areas. 2. Remove all associated waste and debris, resulting from compliance with the above step, from the premises. 3. Cease the use of the rear garden outbuilding as [a] self-contained residential dwelling.
 - The period for compliance with the requirements is five months.
 - The appeal is proceeding on the grounds 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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Decision

1. It is directed that the enforcement notice is corrected and varied by substituting 'outbuilding' with 'building' in the allegation at paragraph 3 and in steps 1 and 3 in paragraph 5. Subject to the correction and variations 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.

Preliminary Matters

2. The enforcement notice alleges the material change of use of the 'rear garden outbuilding' to self-contained residential accommodation. However, the term outbuilding is commonly understood as applying to a separate building which is subordinate to a dwelling, as opposed to where a structure is itself used as a separate dwelling. A building used as a dwelling cannot also be an outbuilding. Therefore, I shall exercise the powers in s176(1) of the Act to correct the allegation and to vary steps 1 and 3 by substituting 'building' for 'outbuilding'. There would be no injustice in doing so.
3. The appellant explained in their written submissions that planning permission is sought to use the building as a residential annexe for occupation by family members. However, the terms of the deemed planning application arising from an appeal made on ground (a) are derived from the matters stated in the notice as constituting a breach of planning control. The power in s177(1)(a) of the Act to grant planning permission does not extend beyond the whole or part of those matters or the land to which the notice relates. The notice alleges a material change in the use of the building to use as self-contained residential

accommodation, i.e., use as a separate dwelling. The notice does not allege that the building is used for a purpose or purposes that are ancillary to the use of the main dwelling. Accordingly, the use of the building other than as self-contained residential accommodation is not part of the alleged breach and falls outside the scope of matters which can be considered in the ground (a) appeal.

4. The Barnet Local Plan 2021-2036 (BLP) was adopted on 4 March 2025, superseding the previous version of that document referred to in the notice. The appeal falls to be determined against the policies in the current Development Plan.
5. My decision takes the revised National Planning Policy Framework, which came into force during the course of the appeal, into account.

Ground (a) appeal

Main Issues

6. The main issues in this ground of appeal are:
 - The effect of the use of the building as self-contained residential accommodation on the character and appearance of the surrounding area.
 - Whether suitable living conditions are provided for existing and future occupiers of the building, having regard to internal floorspace and private outdoor amenity space.
 - The effect on the living conditions of occupiers of neighbouring residential property, having regard to noise and disturbance.

Reasons

Character and appearance

7. The appeal concerns a freestanding single storey building, situated towards the end of the rear garden of a two storey, end of terrace dwelling. The dwelling is located in an established suburban residential area, largely made up by rows of terraced dwellings of similar age, scale, architectural style and alignment to the street, occupying rectilinear plots with reasonably deep rear gardens. These factors contribute to the orderly and pleasant, suburban residential character and appearance of the surroundings.
8. The building is of modest proportions in comparison with the generally more substantial built footprint and scale of the dwellings in the environs. It is of a size more akin to that of an incidental or ancillary outbuilding, not a structure used as self-contained residential accommodation. The building also sits in a plot which is limited in size when compared with the more generous proportions of the plots occupied by the majority of dwellings in the locality. The siting adjacent to the rear garden boundaries has left very little space around the building. Consequently, the building gives the impression of being cramped and restricted on its plot and has created an appreciably more built-up feel in the environs.
9. Moreover, being situated behind the dwelling and other dwellings on the street, alongside the rear gardens of neighbouring residential property, the building occupies a 'backland' location. It has no street frontage, with access being via a private driveway which runs between the side of the dwelling and neighbouring

residential property. As a result, the building occupies a location which is markedly at variance with the general pattern of local development, in which for the most part dwellings directly face onto the street.

10. Due to the above factors, in the context of its use as self-contained residential accommodation the building is entirely at odds with the prevailing pattern of development in the locality and it is viewed as an alien and urbanising feature, significantly and harmfully eroding the pleasant suburban visual qualities of the surroundings. Although there are limited public views, the visual harm associated with the use of the building as self-contained residential accommodation is experienced by neighbouring residential occupiers. The building is clearly visible from neighbouring property, where it is generally seen in conjunction with development having suburban qualities more typical of the surroundings.
11. Therefore, use of the building as self-contained residential accommodation causes unacceptable harm to the character and appearance of the surrounding area. This is in conflict with BLP Policy CDH01, which seeks to promote high quality design, including by requiring new development to respond sensitively to the distinctive local character and design, building form, patterns of development, scale, massing, roof form and height of the existing context, with active frontages that provide visual interest. There is also conflict with BLP Policy HOU03, which requires the redevelopment of larger homes to not have an unacceptable impact upon the character of the surrounding area.
12. Furthermore, the use is inconsistent with Barnet's Residential Design Guide Supplementary Planning Document (SPD). This advises that new development should, amongst other things, complement or improve the character of the area through its appearance, architectural detailing, siting, use of materials, layout and integration with surrounding land, boundaries, building lines, setbacks, fronts and backs and respond to distinctive local building forms and patterns of development by respecting the scale, massing and height of surrounding buildings.

Living conditions-existing and future occupiers of the building

13. The interior of the building contains a combined living, dining and kitchen area, along with a separate double bedroom and bathroom. There are a few basic items of domestic furniture in the living, dining and kitchen area including a lounge sofa and a TV unit, along with a dining table and some chairs. The kitchen facilities include fitted units, a worktop with a sink and drainer, an oven and hob and an upright fridge/ freezer.
14. Compared to the dwelling and neighbouring residential property, the building has a very modest floor area. In the living, dining and kitchen area, there is limited scope for adding other domestic furniture or for storing more than a few of the everyday household items and electrical appliances generally associated with self-contained residential accommodation, whilst still allowing for sufficient circulation space. The bedroom is of a good size, with ample room for circulation after a double bed along with a wardrobe and bedside chair and built-in storage space have been provided. Even so, the limited floor area of the living, dining and kitchen area has meant that there is an uncomfortably cramped and restrictive living space for occupiers of the self-contained residential accommodation.
15. Details of the gross internal floor area (GIA) of the building were not provided. Even so, in my estimation this would not meet the 37m² GIA minimum private

internal space required for a new single storey one-bedroom, one-person dwelling in Table 3.1 to Policy D6 of the London Plan (LP). The shortfall in GIA when assessed against the minimum requirement in Table 3.1, which is reiterated in Table 8 of the BLP as well as in Barnet's Sustainable Design and Construction and Residential Design Guide SPDs, reinforces my misgivings over the suitability of the building to provide self-contained residential accommodation having regard to its restrictive size.

16. The BLP at Table 10 requires a minimum of 5m² private outdoor space to be provided for 1-2 person dwellings that achieves a minimum depth and width of 1.5m². However, the building is not provided with any private outdoor amenity space. As the rear garden is used and overlooked by the occupiers of the dwelling, it cannot also provide a private amenity space for occupiers of the building. This leaves occupiers of the self-contained residential accommodation with little opportunity for undertaking the range of activities that might typically be associated with a private outdoor amenity space, such as informal recreation, cultivating plants, or drying washing. The absence of a private outdoor amenity space which meets the minimum size requirement in the BLP reinforces the restrictive living environment experienced by occupiers of the building.
17. Therefore, suitable living conditions are not provided for existing and future occupiers of the building. This is in conflict with LP Policy D6, which requires new dwellings to provide at least the GIA set out in Table 3.1. There is conflict with BLP Policy CDH01, which requires new dwellings to comply with the internal layout requirements set out in Table 8, also providing a good standard of amenity for potential occupants and adequate outdoor amenity space. There is also conflict with BLP Policy CDH07, which requires new developments to meet as a minimum the outdoor amenity space requirements set out in Table 10. Furthermore, the use is inconsistent with the Residential Design Guide SPD, which seeks to ensure that new development has sufficient, functional and accessible high quality and usable outdoor amenity space away from general public areas.

Living conditions-occupiers of neighbouring residential property

18. Occupiers of the dwelling and other residential property in the vicinity of the building might reasonably expect to enjoy relatively good levels of peace and tranquillity in their dwellings and rear gardens at most times, having regard to the largely suburban residential setting.
19. On account of the rear garden location of the building, the use as self-contained residential accommodation has introduced considerable additional day-to-day activities along with pedestrian comings and goings, in proximity to the rear elevation of the dwelling and its rear garden, along with the rear elevations and rear gardens of neighbouring residential property. This is all likely to have led to occupiers of those properties experiencing a significant and appreciable increase in incidences of noise and other disturbance in their rear gardens and rear-facing rooms, compared with before the use as self-contained residential accommodation commenced.
20. Consequently, use of the building as self-contained residential accommodation has also unacceptably eroded the living conditions previously enjoyed by occupiers of neighbouring residential property. This is in conflict with BLP Policy CDH01, which requires new development to mitigate adverse noise impacts on amenity. There is

conflict with BLP Policy HOU03, which also requires the redevelopment of larger homes to not have an unacceptable impact on the amenity of occupiers of neighbouring properties. There is no conflict however with BLP Policy GSS01, which relates to delivering sustainable growth, or with LP Policy D4, which sets out the processes and actions which help to ensure that new development delivers good design. Nor is there any inconsistency with the Sustainable Design and Construction SPD in this respect.

Conclusion

21. The use of the building as self-contained residential accommodation harms the character and appearance of the surrounding area, suitable living conditions are not provided for existing and future occupiers and there is harm to the living conditions of occupiers of neighbouring residential property, in conflict with the Development Plan, taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the Development Plan. Therefore, 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).

Stephen Hawkins

INSPECTOR