



Appeal Decision

Site visit made on 15 July 2025

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 August 2025

Appeal Ref: APP/N5090/C/23/3329566

70 Dartmouth Road, London NW4 3HX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Rajesh Chopra against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice was issued on 9 August 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the property to two self-contained flats.
 - The requirements of the notice are: 1. Cease the use of the property as self-contained flats.
 - 2. Remove from the property all but one set of kitchen facilities (including kitchen units, sinks, cookers and worktops).
 - The period for compliance with the requirements is six 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. 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 material change of use to two self-contained flats at 70 Dartmouth Road, London NW4 3HX as shown on the plan attached to the notice, subject to the condition in the Schedule at the end of this Decision.

Preliminary Matters

2. The Barnet Local Plan 2021-2036 (BLP) was adopted on 4 March 2025, superseding the previous version of that document referred to in the enforcement notice. I must determine the appeal against the Development Plan policies currently in force. The main parties were asked to draw my attention to BLP policies of relevance to the matter stated in the notice and I have taken the comments received into account.
3. 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 Issue

4. The main issue in this appeal is whether suitable living conditions are provided for existing and future occupiers of the flats, having regard to internal floor space.

Reasons

Living conditions of existing and future occupiers of the flats

5. The appeal property contains an enlarged mid-terrace residential building, providing living accommodation arranged over three floor levels. The notice attacks the subdivision of the building to form two self-contained flats. A one-bedroomed flat (flat 1) occupies the ground floor. A two-bedroomed flat (flat 2), accessed from the communal hallway on the ground floor via an entrance door and a stairwell, occupies the first and second floors.
6. There is no dispute that flat 1 has a gross internal floor area (GIA) of about 57m², with a floor to ceiling height of around 2.7m. Based on my own observations, there is no sound reason why I should find otherwise. Therefore, flat 1 exceeds the minimum internal space standard of 50m² GIA for a new one-bedroom, two-person single storey dwelling and the minimum 2.5m floor to ceiling height, in Table 3.1 and Policy D6 of the London Plan (LP). Similar minimum standards are reiterated in the BLP at Table 8 as well as in Barnet's Sustainable Design and Construction and Residential Design Guidance Supplementary Planning Documents (SPDs).
7. The appellant supplied drawings which showed flat 2 as having a GIA of around 77m², including the stairwell leading to the first floor. It is not unreasonable to include the stairwell leading to the first floor in the GIA of flat 2. The stairwell is wholly within flat 2, being behind the entrance door from the communal hallway. The Council did not query the accuracy of the appellant's drawings and there is no sound reason why I should do so.
8. The drawings supplied show the first-floor bedroom in flat 2 as having a floor area of just under 11m², falling slightly below the minimum standard of 11.5m² for a double or twin bedroom in LP Policy D6. As was evident when I visited, this bedroom is nevertheless capable of comfortably accommodating a double bed whilst leaving ample space for other bedroom furniture including a dressing table and wardrobe, as well as for circulation. The bedroom also has an ensuite WC and shower. At around 14.7m², the floor area of the second-floor bedroom exceeds the requirement for a double bedroom. Accordingly, flat 2 is most accurately described as a two-bedroom, four-person dwelling. As the minimum internal space standard in Table 3.1 of the LP, BLP Table 8 and the SPDs is 79m² GIA for such dwellings, there is a modest shortfall in the internal floorspace of flat 2.
9. Be that as it may, both flats provide reasonably generous and spacious living accommodation. In flat 2 in particular, the combined lounge, diner and kitchen can comfortably accommodate a range of everyday household furniture including a large lounge sofa, a dining table and some chairs, along with a well-equipped fitted kitchen. There is a spacious and airy feel in the lounge, diner and kitchen, as well as in the first-floor bedroom. Although access was unavailable, based on my observations on the other floors and the drawings supplied, the second-floor bedroom and study are highly likely to exhibit similarly spacious and airy qualities. Whilst part of the second floor has a sloping ceiling, the drawings supplied show that the floor to ceiling height in flat 2 exceeds the minimum 2.5m for at least 75% of the GIA in LP Policy D6, BLP Table 8 and the minimum specified in the SPDs.
10. Therefore, in my view suitable living conditions are provided for existing and future occupiers of both flats. In respect of flat 2, there is a breach of the requirement in LP Policy D6 for new dwellings to meet the minimum internal space standards.

However, when looked at in the round there is no conflict with that Policy as the other criteria are satisfied, including through the high-quality design which provides adequately sized rooms with comfortable and functional layouts which are fit for purpose. For similar reasons, there is no conflict with BLP Policy CDH01 and BLP Policy HOU03.

Other matters

11. The Council did not draw attention to any BLP Policies they considered relevant to the appeal. There is little firm evidence to indicate that granting permission for the flats would contribute to a shortfall in family sized homes in the Borough, or that the flats are deficient in relation to the provision of outdoor amenity space. Nor is there any firm evidence to suggest that the provision made for car parking is deficient when assessed against the maximum standard in the BLP at Table 20, or that suitable provision could not be made within the development for cycle parking. Therefore, although the flats might be in breach of criteria in BLP Policy HOU03, there is little before me to suggest an overall conflict with that Policy.

Conditions

12. After seeking the views of the main parties, I shall impose a planning condition which requires the submission to and approval by the Council of schemes for the provision within the development of secure cycle parking and waste and recycling storage, along with their subsequent implementation and maintenance. This is necessary in the case of the cycle parking to encourage the use of more sustainable forms of travel other than the private car. In the case of the waste and recycling storage, the condition is necessary to safeguard the character and appearance of the surrounding area, the living conditions of existing and future occupiers of the flats and the living conditions of occupiers of neighbouring residential property.
13. The condition is drafted in the form set out below because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the submission to and approval by the Council along with the subsequent implementation and maintenance of the schemes in question, because development has already taken place. The purpose and effect of the condition is therefore to ensure that the development permitted may only remain if the appellant complies with its requirements.

Conclusion

14. Suitable living conditions are provided for existing and future occupiers of the flats, in accordance with the Development Plan. 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 succeed on ground (a). I shall grant planning permission for the development as described in the notice. The enforcement notice will be quashed.

Stephen Hawkins

INSPECTOR

CONDITIONS SCHEDULE

- 1) Unless within 3 months of the date of this decision schemes for the provision within the development of (a) secure cycle parking and (b) waste and recycling storage are submitted in writing to the Local Planning Authority for approval, and unless the approved schemes are implemented within 3 months of the Local Planning Authority's approval, the use of the site as two self-contained flats shall cease until such time as both schemes are approved and implemented.

If the schemes in accordance with this condition are not approved within 9 months of the date of this decision, the use of the site as two self-contained flats shall cease until such time as schemes approved by the Local Planning Authority are both implemented.

Upon implementation of the approved schemes specified in this condition, those schemes shall thereafter be maintained in accordance with the approved details.

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.