



Appeal Decision

Site visit made on 11 August 2025

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2025

Appeal Ref: APP/L5240/C/23/3323435

67 Edith Road, South Norwood, London SE25 5PG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mrs Sarah Ismail Obuli against an enforcement notice issued by the Council of the London Borough of Croydon.
 - The notice was issued on 27 April 2023.
 - The breach of planning control as alleged in the notice is Without planning permission, the unauthorised change of use of building as 2 self-contained dwellings.
 - The requirements of the notice are:
 - 1) Revert the property to its original character by removing all partitions and doors which facilitate the conversion of the property into flats, and you must remove all the utilities such as the kitchens, cupboards, the gas boilers, bathrooms, electric meters that were installed in the separate flats apart from the one serving the whole house.
 - 2) Remove all the resultant debris from the premises as a result of compliance with requirements 1 as identified above.
 - The period for compliance with the requirements is 6 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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Decision

1. The appeal is dismissed, and 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. A previous planning appeal was dismissed at the appeal site for the "change of use of a single-family dwelling to 2no self-contained flats comprising 2no x 3 bed units including alterations to the ground floor rear roof and the erection of a dormer over the rear addition¹" (2023 appeal decision). The Council served the Notice, the subject of this appeal, following this appeal decision.

Main Issues

3. The main issues are:
 - Whether the occupiers of the flats enjoy satisfactory living conditions, having regard to the size of bedrooms, private amenity space and privacy;

¹ Appeal Ref: APP/L5240/W/22/3297851 dismissed on 24 January 2023.

- whether space is available within the appeal site for cycle parking and waste storage facilities; and
- the effect of the development on fire safety.

Reasons

Living conditions of current and future occupiers of the flats - size of the bedroom, private amenity space and privacy

4. The appeal site relates to a two-storey semi-detached building, which has been previously extended with a single storey rear extension, two storey side extension and a rear dormer roof extension providing two bedrooms in the roof space.

Size of bedroom

5. The Council raises an objection that the newly created dormer roof extension fails to provide sufficient headroom for habitable accommodation. Policy D6 of the London Plan, 2021 (London Plan) requires that development should be of high-quality design and provide adequately-sized rooms (see Table 3.1) with comfortable and functional layouts which are fit for purpose and meet the needs of Londoners without differentiating between tenures. Part 5) of Policy D6 states that any area with a headroom of less than 1.5m is not counted within the Gross Internal Area unless used solely for storage.
6. However, during my site inspection, I observed that the front room in the loft space was in use as a bedroom with two mattresses on the floor and another bed. A large section of the ceiling for this room was sloping with much of its floor area restricted in height and no details have been provided to show what floorspace within this bedroom exceeds 1.5m in height to the ceiling. Nevertheless, the restricted roof heights for much of the bedroom resulted in the room feeling enclosed and cramped for its intended use, detrimental to the living conditions for the occupiers of the room, contrary to Part 5 of Policy D6.
7. I appreciate that this room represents only one room within one of the flats. Nevertheless, this does not override the need to provide acceptable standards of living accommodation, and the London Plan is clear that all developments should be of high-quality design and provide adequately sized rooms. The current layout fails to meet this requirement.

Amenity space

8. Policy DM10.4 of the Croydon Local Plan, 2018 (CLP) and Policy D6 of the London Plan requires a minimum amount of private amenity space of 5m² per 1-2-person unit and an extra 1 sq.m should be provided for each additional occupant, and it must achieve a minimum depth and width of 1.5m. Contrary to this, no amenity space is currently provided for the flat located at first and second floor level.
9. A proposed plan² has been submitted which shows that the outbuilding located within the grounds of the school, to the rear of the site, would be demolished, and that the appellant intends to take ownership of this land to provide amenity space for both flats. However, no evidence has been submitted to demonstrate that the appellant has gained ownership and control of this land,

² Drawing no: 1679_P06D.

and at the time of the site visit, this area of land was still separated from the appeal site, with the outbuilding still in place. As such, it has not been demonstrated that the proposed garden plan is deliverable at this time, and therefore I am unable to deal with this by condition.

Privacy

10. Another proposed plan³ has been submitted which shows the existing garden sub-divided into two gardens. However, the use of the garden by the occupiers of Flat B (the first and second floor flat), due to its close proximity would directly overlook the existing bedroom window in Flat A at ground floor level resulting in an uncomfortable and unacceptable relationship between both flats. This would harm the living conditions for occupiers of both flats.
11. Furthermore, access to this garden area for the occupiers of Flat B is proposed via the side of the property, which at the time of my site visit was inaccessible with old items of waste and furniture. Access for the occupiers of Flat B to the rear garden would be lengthy, convoluted and involve exiting the front door and walking along a narrow, enclosed side path alongside the building. These factors would deter future occupiers of Flat B to utilise this space. Such an arrangement would therefore be impractical and not fit for its intended purpose. As such, both proposed garden plans fail to address the lack of private amenity space provided for the first and second floor flat.
12. I therefore conclude that the development harms the living conditions for the occupiers of the flats with particular regard to the size of bedrooms, private amenity space, and privacy in conflict with Policy D6 of the London Plan, and Policies DM10.4 of the CLP. Amongst other things these require the aforementioned aims and requires that housing development be of high-quality design and provide adequately-sized rooms with comfortable and functional layouts which are fit for purpose.

Cycle parking and waste storage

13. Policy T5 of the London Plan requires developments to provide cycle parking at least in accordance with the minimum standards set out in Table 10.2. This requires two cycle parking space for each flat. Whilst no safe and secure cycle parking spaces are currently provided on site, the appellant refers to the proposed plan 1679_P06D which proposes bicycle storage in the rear garden for both flats.
14. Again, this plan proposes the enlargement of the existing rear garden through the demolition of the existing outbuilding, currently in use by the school and the transfer of ownership of this land to the appellant. However, as outlined above there is no evidence to demonstrate that this land is in the ownership and control of the appellant and the outbuilding remains in situ within the grounds of the school at the time of my inspection. As such, there is a clear lack of evidence to demonstrate that the proposed cycle storage scheme is deliverable at this time, and I am therefore unable to deal with this by condition.
15. Turning to waste and recycling facilities, at the time of my site inspection five wheelie bins and a car were positioned within the front garden. Plan 1679_P06D illustrates the provision of 6 bins can be provided within the front

³ Drawing No 1679_P06 Rev. A

garden, which would retain the space for parking. The proposed refuse storage could be secured by condition.

16. Therefore, whilst the proposed refuse and recyclable facilities are acceptable, I conclude that the development is unacceptable, with regard to cycle parking, in conflict with Policies T1, T2 and T5 of the London Plan, and Policies DM29 and DM30 of the CLP. Together, these seek the aforementioned aims and promote measures to increase the use of public transport, cycling and walking.

Whether the development provides suitable fire safety for all building users

17. The appellant has submitted a Fire Statement with their appeal, which outlines a number of fire safety measures for the site which includes details of construction of the building, means of escape and access facilities for fire and rescues services. No further explanation has been provided to explain why this statement would not be acceptable, and I note in the previous 2023 appeal decision, the Inspector considered that this matter could be satisfactorily dealt with by condition.
18. Therefore, subject to the imposition of a condition in respect of fire safety details, the development provides suitable fire safety for all building users, in accordance with Policy D12 of the London Plan, which requires that that all development proposals provide the highest standards of fire safety.

Other matters

19. The appellant states that other properties in the same road have been converted successfully. However, full details of those other schemes have not been provided and therefore I cannot be certain that the circumstances of those developments are directly comparable to the appeal development before me. Furthermore, most properties within the road generally contain larger rear gardens than the appeal site, which has an unusually small area of amenity space to the rear. I have therefore determined the appeal on its own merits.
20. The appellant states that the change of use was substantially complete in 2018 and the continued use has been "practically" in existence since that date. This is an argument more appropriately advanced under ground (d) 'that it was too late to take enforcement action.' However, no appeal was made on this basis, and no clear evidence has been put forward to support this statement, or to demonstrate continuous occupation, without any substantial interruption for at least four years. Based on the lack of any sufficiently precise and unambiguous evidence, it is therefore not necessary for me to consider this further under a 'hidden' ground (d) appeal.
21. 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 unauthorised use provides unacceptable living conditions for occupiers of the appeal site, in conflict with the development plan taken as a whole. The adverse impacts of the unauthorised use would outweigh the limited benefit of providing one additional flat close in a residential area with good public transport accessibility. Furthermore, no clear evidence has been submitted to demonstrate that the proposed plan 1679_P06D is deliverable at this time. Therefore, there are no material considerations that would lead me to a decision other than in accordance with the development plan in this case.

Conclusion

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

R. Satheesan

INSPECTOR