



Appeal Decision

Site visit made on 12 August 2025

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 August 2025

Appeal Ref: APP/N5660/C/23/3328646

12-14 Donnybrook Road, London SW16 5AT

- 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 Miss Claudia Rossi against an enforcement notice issued by the Council of the London Borough of Lambeth.
 - The enforcement notice was issued on 26 July 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use and amalgamation of two (C3) dwellinghouses into a (C1) bed and breakfast ('the unauthorised bed and breakfast use').
 - The requirements of the notice are to:
 - a) Cease the unauthorised bed and breakfast use and remove all facilities, furniture, fixtures and fittings that facilitate the unauthorised use; and
 - b) Permanently remove and stop-up the internal accesses between nos 12 and 14 Donnybrook Road by reinstating the party wall as existed prior to the breach of planning control; and
 - c) Remove all associated waste and debris resulting from compliance with the above requirements from the premises.
 - The period for compliance is three months after this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Formal decision

1. It is directed that the enforcement notice be corrected by deleting requirement a) and replacing it with the following wording:

"Cease the unauthorised use of the premises for bed and breakfast accommodation, and remove all fixtures and fittings that facilitate the said use."

Requirement b) is deleted.

Subject to these corrections 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.

Matters concerning the enforcement notice

2. Although the purpose of requirements a) and b) are obvious I find the wording of a) to be rather vague and, moreover, b) appears unduly excessive.
3. The amalgamation of two units into one does not necessarily constitute development. However, in this particular instance the works have facilitated the material change of use of no 14 to bed and breakfast accommodation, and

this requires the benefit of planning permission. In the circumstances, although the enforcement notice is lawfully correct in requiring the cessation of the unauthorised use the requirement that the internal access created between nos 12 and 14 is stopped-up, and the party-wall reinstated is flawed. The removal of the internal wall is not development, nor is it, therefore, reasonable to require for its reinstatement. Accordingly, I shall delete requirement b).

4. In requirement a), reference to 'all facilities' and 'furniture' is imprecise and open to wide interpretation.
5. Under the provisions of section 176(1) of the 1990 Act as amended it is open to me to correct any defect, error or misdescription in the enforcement notice or to vary its terms if I am satisfied that the correction or variation will not cause any injustice. It is considered that the Courts interpret the power to correct a notice very widely and that the powers in s176(1) can extend to making significant changes to the terms of the notice so as to put it on a proper footing.
6. The required corrections here are not so significant as to potentially cause any injustice to either party, and I am, therefore, able to make the necessary changes.

Background

7. It is understood that the owner/appellant, who lives at no 12 purchased no 14, the adjoining property, in 2017 and then knocked through the dividing wall and reconfigured the layout so as to refit no 14 for the purposes of providing bed and breakfast accommodation therein. This use has seemingly continued since this time.
8. At my site visit I inspected both properties. Within the no 14 area there are the three bedrooms let out, one with en-suite facilities and the other two with separate bathrooms. To the rear, at ground floor level, is a kitchen/diner and a utility room. Persons staying at the premises also have access to rear garden space.
9. As mentioned, the area of the property comprising no 12 is where the appellant still lives and her self-contained accommodation needs are all provided within this side of the building. She has confirmed that she interacts with the persons staying, as is necessary.

The appeal on ground (a) – the deemed planning application (DPA)

10. The main issues are:

- 1) whether the loss of a family-sized dwelling to bed and breakfast accommodation in this area of the borough can be justified; and
- 2) the development's effect on the living conditions of neighbouring occupiers.

Reasons

Loss of a dwellinghouse

11. Donnybrook Road and the surrounding streets are predominantly residential in character. I note, though, that the appellant has listed seven properties within Donnybrook Road which, she says, are no longer in use as single-family

dwellings. It is indicated that two of these have been commissioned by the Council as Rehabilitation Houses, housing ex-offenders, and there are also some properties in Class C1 use, which encompasses guest houses, boarding houses and hotels.

12. The Council makes the point that Class C3 (residential) of the Town and Country Planning Use Classes Order has different sub-categories, and Class C3(b) covers up to six persons living together as a single household and receiving limited care. This includes supported housing schemes such as those for people with learning disabilities or mental health problems.
13. Policy H3 of the Lambeth Local Plan (LLP) serves to safeguard the Borough's Housing stock and LP policy ED14 says that visitor accommodation within the borough, should be located within town centre locations. This is clearly to guard against the loss of residential dwellings, given the recognised need for such, and also so that temporary residents can afford themselves of the range of facilities not normally provided within residential areas. The appeal site does not fall within a defined town centre location. Similarly, policy E10 of the London Plan (LP) has, amongst other things, the same objective.
14. On the above basis there are clearly local properties which are being used in a different manner to that which characterises a single-family dwelling, but with freedom of movement between Classes C3(a), (b) and (c) – the latter two of which stipulate a maximum of six persons – changes within C3 do not require the benefit of planning permission. Changes to Class C1 from C3 would need planning permission but I have no direct knowledge of the planning status of the various local properties in Donnybrook Road, Ellen Road and Cauliffe Street cited by the appellant as being in C1 use. Further, a dwelling can be lawfully used up to 90 nights in a calendar year for this purpose provided it is the owner's primary residence and is responsible for the payment of Council tax.
15. On the evidence available, and on balance, there are fundamental policy objections to the bed and breakfast use, as specified and, in light of this, I conclude that the material change of use in this area has not here been justified.

Living conditions

16. I have not seen any compelling empirical evidence from either the Council or through representations from interested parties to show that the change of use has given rise to conditions detrimental to the living conditions of neighbouring occupiers. No 14 has just three bedrooms available for renting out – with, perhaps, a maximum of six persons resident at any one time – but I would consider this a rather low-key use in nature, and I take issue with the Council, in its reasons for issuing the enforcement notice, making reference to *'increased comings and goings and associated noise and disturbance'*. Indeed, when considered alongside other local properties whose current uses fall outside the C3(a) category, it is difficult to understand how the character of the area is affected by the development.
17. Given the above I am satisfied that the living conditions of neighbouring occupiers have not been impacted upon and the use, in this particular instance, is not at odds with the the aims and requirements of LLP policy Q2 which serves to protect local amenity.

18. In terms of kerbside parking, this street does not form part of a Controlled Parking Zone and, at the time of my site visit, I noted that there was limited spare capacity available at this end of Donnybrook Road. However, this easements south of its junction with Broadview Road. Further, Streatham Vale railway station is within walking distance. As regards cycle and refuse storage this is easily addressed, if necessary, given that both properties have some front curtilage space available.

Other Considerations

19. At my site visit I found that the accommodation provided is spacious, clean, orderly and appears generally well run. I note also that, the Council's list of suggested conditions, were I minded to allow the appeal and grant planning permission, include that this be made personal to the appellant herself. This approach, though, would mean that for as long as no 14 remained under her control the bed and breakfast accommodation could continue for as long as she wished it to, and the Class C3 use would be lost for this duration.
20. When considering the actual grounds of appeal here the appellant decided not to make any appeal under ground (g) as an attempt to show that the stipulated time period for compliance – in this instance, three months – is unreasonably short. As such, I am unable to extend this period. Neither has the appellant requested that she should be granted planning permission subject to a time limitation condition, in that it would be for a temporary period only. However, I do note her apparent intention to close down the bed and breakfast accommodation in the near future, and in light of the above the three month period may suffice. In the event that this should prove insufficient then the Council does hold powers to extend this, but that must remain a matter between the parties themselves. Besides, my corrections to the enforcement notice's requirements should prove that compliance will be less onerous to the appellant.
21. Turning again to the said 90 night allowance, an enforcement notice should not affect any existing use rights. This was founded on the judgement of *Mansi v Elstree Rural DC* [1964] 16 P&CR 153, and is thereby known as the Mansi principle. In effect, though, the appellant would firstly need to show that the enforcement notice's requirements have been complied with.

Conclusion

22. Although in the absence of any evidence to show that the development is harmful to the residential amenities or living conditions of neighbouring occupiers this is outweighed by the loss of a single family dwelling to the use enforced against. For the reasons given above I must thereby conclude that the appeal should not succeed. I shall uphold the enforcement notice, with corrections, and refuse to grant planning permission on the DPA.

Timothy C King

INSPECTOR