



Appeal Decision

Site visit made on 9 September 2025

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 September 2025

Appeal Ref: APP/G5750/C/23/3323036

389A Green Street, Upton Park, London E13 9AU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Munawar Iqbal against an enforcement notice issued by the Council of the London Borough of Newham.
 - The notice was issued on 26 April 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use 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 kitchen. 3. Remove from the property all but one bathroom. 4. Remove from the property any internal dividing doorways and internal partitioning that solely facilitates the use as self-contained flats. 5. Remove from the property all but one supply of electricity, gas and water. 6. Remove from the site all debris arising from compliance with steps 1, 2, 3, 4 and 5.
 - The period for compliance with the requirements is five months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) 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 varied by in paragraph 5 substituting 'five months' with 'nine months' as the period for compliance. Subject to the variation 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 Matter

2. 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

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

Reasons

Living conditions

4. The property is on the first and second floors of a three-storey building, in a row of buildings with commercial uses on the ground floor and residential uses on the upper floors. A two-bedroom flat (flat A) is on the first floor and a one-bedroom flat (flat B) on the second floor.

5. Flat A has a gross internal floor area (GIA) of around 67m². This exceeds the minimum internal space standard of 61m² GIA for a two-bedroom, three-person dwelling set out in the nationally described space standard (NDSS), reiterated in Table 3.1 of the London Plan (LP). At around 11.3m², one bedroom provides only marginally less floor space than the national minimum space requirement of 11.5m² for a two-bed space double or twin room bedroom, reiterated in LP Policy D6. The other bedroom is larger, having a floor area of around 15.5m². Although there is no separate lounge, some furniture items including a sofa and a dining table are in an area adjoining the kitchen along with other everyday household items and personal possessions, still leaving ample room for access and circulation. Accordingly, flat A is of a sufficient size to provide suitable living conditions for existing and future occupiers.
6. Flat B however is of modest dimensions. Its GIA is around 32m², falling well short of the minimum space standard of 37m² required in the NDSS for a one-bedroom, one-person flat with a shower room, reiterated in LP Table 3.1. Also, given the low height of the ceiling throughout, it is highly doubtful that the flat meets either the NDSS requirement for a minimum 2.3m floor to ceiling height for at least 75% of the GIA, or the slightly higher minimum requirement of 2.5m in LP Policy D6.
7. At around 13.5m², the bedroom exceeds the minimum floor area for a two-bed space bedroom. Even so, the kitchen and landing are of an irregular shape and limited in width. The landing is at the top of the steep, narrow staircase which gives access to the flat, providing limited room other than for accessing the bedroom and kitchen after accommodating a wardrobe and an upright fridge/freezer. In the absence of any other space similar to a lounge, there is little room to accommodate basic furniture items such as a sofa, or for circulation, on the landing. Without a secure facility elsewhere at the property, storing a bike, even of the folding type, would further reduce the floor area available in the flat. Occupiers should not have to go without a suitably sized living space or the ability to store reasonable quantities of day-to-day personal and other household items.
8. There is little circulation space in the kitchen after accommodating the work surface, cooker, hob, sink and drainer and cupboard units. The limited scope for accommodating everyday household electrical appliances is illustrated by the location of the fridge/freezer on the landing. Useable circulation space in the kitchen is further reduced in practice by the door to the shower/WC, which opens to obstruct use of the sink and drainer.
9. As a result, flat B has an uncomfortably cramped and congested feel and provides a living space which is awkward to use. This together with the significant shortfall in GIA and the likely lower floor to ceiling height when assessed against the minimum standards leads me to conclude that flat B provides a restrictive living environment which does not meet the functional needs of existing and future occupiers.
10. The quality of the fixtures and fittings along with sound and heat insulation does not mitigate the restrictive floor area of flat B. Nor does the undoubtedly high local demand for living accommodation provide sufficient justification in that respect. If such an approach were to be followed there would be little point in having the minimum space standards. Erecting a balustrade to facilitate the use of the ground floor roof area as an outdoor amenity space for flat A would have no effect on the restrictive living environment experienced by occupiers of flat B. Moreover, this would involve additional works not part of the development stated in the notice, thus falling outside the scope of the ground (a) appeal. Neither would making a commuted payment for improvements to public open space overcome the harm identified. Besides, no Development Plan or other policy justification for making such a payment was drawn to my attention and there is no mechanism by which it could be secured.

11. Therefore, suitable living conditions are not provided for existing and future occupiers of the flats. This is in conflict with criterion in LP Policy D3, which requires new development to achieve indoor and outdoor environments that are comfortable and inviting for people to use, as well as LP Policy D6 which requires new developments to, amongst other things, have comfortable and functional layouts which are fit for purpose providing at least the GIA in Table 3.1 and with the minimum floor to ceiling height set out above. Also, it is in conflict with criterion in LP Policy GG4, which supports the provision of good quality homes. Furthermore, there is conflict with Policy SP2 of the Newham Local Plan (NLP), which requires new development to, amongst other things, improve housing quality. In addition, there is conflict with NLP Policy H1, which requires new development to, amongst other things, meet the minimum internal space standards in the LP.
12. The Council did not explain the relevance to this case of LP Policies D4, D5 and D8 which, respectively, concern the strategy for delivering good design, achieving inclusive design and the public realm, or of NLP Policies SP1 and SP3 with similar aims and objectives. Therefore, I find no conflict with these policies. Nor was my attention drawn to parts of the Mayor of London's Housing Supplementary Planning Guidance with a bearing on this matter.

Other Matters

13. The flats have made use of vacant commercial floorspace and contribute to meeting the need for housing in the Borough, providing a mix of living accommodation in a location with ease of access to local facilities and links to frequent public transport services. These factors weigh in favour of granting permission, albeit moderately having regard to the small scale of the development.

Conclusion-Ground (a) appeal

14. Suitable living conditions are not provided for existing and future occupiers of the flats, 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, the ground (a) appeal does not succeed.

Ground (f) appeal

15. The ground of appeal is that the requirements of the notice are excessive.
16. An enforcement notice can have the purpose of remedying the breach of planning control, including by restoring the land to its condition before the breach took place, and/or it can have the purpose of remedying any injury to amenity caused by the breach.
17. The purpose of the notice is to remedy the breach. Complying with the requirements would restore the property to its condition before the breach took place, as the unauthorised use as self-contained flats would cease and the works undertaken solely for the purpose of facilitating that use would be removed.
18. The appellant's suggested alternatives to the requirements were dealt with as part of the ground (a) appeal, as they involved planning merits considerations. In the context of ground (f), any alternative step which stopped short of requiring the unauthorised use as flats to cease and the works which facilitate such use to be removed would sustain the breach and so would not achieve the purpose of the notice. The appellant did not suggest any other alternative to the notice requirements. To my mind, no requirements other than those specified in the notice would remedy the breach.

19. Therefore, the requirements are reasonable and not excessive; they are proportionate, being the minimum actions necessary to remedy the breach and so achieve the purpose of the notice. The ground (f) appeal fails.

Ground (g) appeal

20. The ground of appeal is that the time allowed for complying with the notice requirements is too short.
21. Extending the time for compliance to eighteen months would perpetuate the breach and the planning harm identified above. It would blunt the urgency for taking enforcement action, as well as being tantamount to a grant of temporary permission. It is by no means inevitable that the appellant would have to commence eviction proceedings. Equally if not more likely is that the tenants would simply vacate the premises given the required period of notice.
22. On the other hand, five months provides the tenants with limited time in which to search for and secure alternative living accommodation. Given the pressures on the availability and affordability of housing in London generally, I cannot reasonably be assured that such a period would provide optimal opportunity for the tenants to secure suitable living accommodation, whilst also affording the appellant sufficient time to have the remedial works undertaken. I cannot rely on the Council exercising their power in s173A(1)(b) of the Act to lengthen the time for compliance, as that is uncertain.
23. Nine months however would offer an appreciable period during which tenants could search for and secure suitable alternative accommodation before vacating the property. This would reduce the prospect of the tenants facing homelessness, as well as minimising any risk of eviction proceedings being necessary. It would also provide sufficient time for carrying out the remedial works, along with any refurbishment works required, once the tenants have vacated the property. Lengthening the time for compliance accordingly would not unduly perpetuate the breach. There would be an appropriate balance struck between remedying the breach as soon as is practicable, whilst not imposing a disproportionate burden on the appellant and their tenants.
24. Therefore, I conclude that nine months would be a reasonable time for compliance. I shall exercise the power in s176(1)(b) of the Act to vary the terms of the notice to extend the time allowed for compliance accordingly. No injustice would be caused in doing so. The ground (g) appeal succeeds to that extent.

Conclusion

25. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation 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