



Appeal Decision

Site visit made on 15 September 2025

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th October 2025

Appeal Ref: APP/D1780/C/25/3363465

21 Coventry Road, Southampton, Hampshire SO15 2GF

- The appeal is made under section 174 of the Town and Country Planning Act 1990, as amended (the Act).
- The appeal is made by Shergill Estates Property Lettings Ltd against an enforcement notice issued by Southampton City Council.
- The notice was issued on 28 February 2025.
- The breach of planning control as alleged in the notice is without planning permission,
 - a) The material change of use of the Land to four flats; and
 - b) The construction of a single storey rear extension..
- The requirements of the notice are to:
 - 5(i) Cease the use as separate self-contained flats.
 - 5(ii) Remove all fixtures and fittings that solely facilitate the use as flats.
 - 5(iii) Remove the single storey rear extension.
 - 5(iv) Remove all materials and debris resulting from complying with requirements (ii) & (iii) above from the Land.
- The period for compliance with the requirements is: four months.
- The appeal was made on the ground set out in section 174(2)(a) of the Act. 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.

Summary Decision: The appeal is dismissed; the enforcement notice is corrected and varied then upheld and planning permission is refused.

Preliminary Matters

1. Albeit raised in ground (a), the appellant claimed an aerial photograph and some tenancy agreements show, respectively, that the rear extension and the four flats were immune from enforcement action by the passage of time. This raised ground (d). The appellant also referred to homelessness if the appeal was dismissed. This is relevant to the period specified in the notice to take the steps required by it, so I will deal with it as ground (g). I am satisfied that the Council had an opportunity to reflect on these matters in its appeal statement. There is therefore no injustice to any party by determining the appeal on this basis.

Ground (d)

2. For ground (d) to succeed, the onus and burden of proof is firmly on the appellant to demonstrate, on the balance of probabilities, that when the notice was issued it was too late to take enforcement action against either alleged breach of planning control.
3. With respect to the rear extension, in July 2024 the Council refused a lawful development certificate (LDC) application for an 'existing single storey rear extension'. There is no dispute that the LDC relates to the extension that is the subject of this appeal but I have been provided with the decision notice, not the

evidence that informed the Council's decision and whether or not it included this aerial photo.

4. The web browser tab in the header of the appellant's aerial photo is marked 'Google Earth', a generally accepted reputable, independent source. It shows no road name and the properties marked 19 and 23 sandwich one marked 37. However, '19-21 coventry road' is entered in the search box with a partial postcode 'so15'. Considering what I also saw at my site visit, I am satisfied that property 37 is No.21 Coventry Road, a two-storey former semi-detached house. In addition, that the light grey square shown in the aerial photo (behind the brown two-storey rear outrigger) is the flat roof of the extension pursued by the notice. The 'Historical Imagery' box in the header gives '9 Apr 2020' as the date of the aerial photo and the timeline next to it shows the year 2020.
5. The Council did not dispute the aerial photo or what the appellant purports it shows; namely, that the extension existed by then, including elevations. Although not corroborated by anyone else, this evidence is sufficiently precise and unambiguous and there is little of substance to contradict the appellant's version of events or render them less than probable. Consequently, there is not much to counter that the extension was substantially complete by 9 April 2020, so the 4 year period in the notice for this operational development has been accrued.
6. In terms of the material change of use to four flats, the appellant's tenancy agreements straddle a period between March 2019 and December 2021. Even if they are for self-contained flats (which I saw is the current configuration of No.21) they cover a period of some two and half years in total, with a gap of some three years prior to the date the notice was issued. There is also evidence that the appellant made an application in January 2019 to licence No.21 as a house in multiple occupation (HMO) and then claimed HMO use had ceased by the time of an email sent to the Council in February 2022. Accordingly, the 4 year period in the notice and continuity for the material change of use has not been accrued.
7. Taking account of all the above, the appellant has, therefore, as a matter of fact and degree, demonstrated on the balance of probabilities that the extension was immune from enforcement action due to the passage of time, but not the flats. Consequently, at the date the notice was issued enforcement action could not have been taken against the extension and ground (d) succeeds to this extent. I shall therefore correct the breach of planning control and the requirements of the notice accordingly. In these circumstances, I do not need to consider ground (a) for the extension. On this same basis, enforcement action could have been taken against the flats and to this extent ground (d) fails.

Ground (a)

8. Ground (a) is that planning permission ought to be granted for the breach of planning control stated in the (corrected) notice. This is the material change of use of the land to four flats.

Main issues

9. The main issues are:
 - whether each flat provides satisfactory internal and external living conditions for occupants, having regard to the size and quality of space;

- the effect of the four flats on housing mix and type; and
- their effect on the living conditions of the occupants of nearby residential properties, having regard to noise and disturbance.

Reasons

Living conditions - flats

10. Albeit a snapshot, I saw that each flat has a separate bedroom, all containing double beds – three with ensuite toilet/shower and the other a separate toilet/shower room. Each flat has fitted kitchen worktops, cupboards and appliances – three within or part of a main living area and one a separate room. A planning condition or obligation to limit occupancy to a single person could not easily be monitored or practicably enforced and there is no apparent reason why each flat could not be occupied by adult couples.
11. The Council referred to the Nationally Described Space Standard (NDSS). I have not been informed the NDSS has been adopted by the Council through a relevant development plan policy. It is, though, a useful guide to satisfactory internal living space in residential properties. It already takes into account minimum gross internal area (GIA) in a property and in bedrooms as well as bedroom widths and number of bedspaces. In this case, each flat can be occupied by two persons and there are eight bedspaces overall, but there is little objective evidence about GIA or room dimensions. The Council has therefore not substantiated that all of the flats ‘fall considerably short’ of the NDSS. Equally, the appellant has not shown they do not fall short or if they do, by how much; nor that the flats were established before the NDSS was published in 2015.
12. Part of the bedroom in the ground floor front flat was also a lounge and part of the kitchen/dining space was also a home office and used for drying clothes. The bedroom/lounge window is next to the rear external amenity area, with potential views into this room and loss of privacy. It is unreasonable to rely on a wardrobe that had been placed across most of the window for privacy, or on curtains or blinds drawn permanently and this would anyway unduly restrict outlook and natural light. Even with the net curtain drawn this room was gloomy and likely to be overly reliant on artificial lighting at most times. The ground floor rear flat has a separate bedroom and an area for a lounge included two sofas and a low table, so also a dining space open to a kitchen next to it. But the kitchen is very narrow and a tight thoroughfare between the lounge and bedroom at either end or to the toilet/shower room off to one side.
13. Although with a separate room capable of use as a bedroom, the main living area in the first floor front flat was a combined kitchen/dining and lounge area and also used to dry clothes. The first floor rear flat has a very narrow kitchen with no table or chairs and is part of a passageway. The small bedroom was mostly taken up by a double bed, with no apparent lounge or dining area including sofa, tables or chairs.
14. This number of bedspaces significantly increases demands on available space for normal residential use and activity, including requirements for furniture and storage. Although these deficiencies are more severe in some of the flats, the overall available GIA in No.21 and each bedroom GIA or width impose significant restrictions on residential use and activity in all of the flats, including the layout or

apportionment of space. Unlike suitably sized studio flats, the overlap and overload of activity in rooms causes unduly cramped living areas and extremely limited circulation space which inhibits convenient or practical use of rooms in each of these four conventional flats. As such, they do not meet normal expectations in these regards.

15. The external amenity area is entered along the side of No.21 and is also the means of access to the ground floor rear flat. Despite a storage outbuilding in one corner and the rear extension, which is only as wide as the rear outrigger, the rest of this east and mainly south facing space is mostly open and unconstrained by boundary features. As such, it is suitable and convenient for use by the occupant(s) of the ground floor rear flat. However, there is little evidence this space is available to the occupants of the other flats. Given that the front garden is open to public view from the road, these occupants have no access to an outside private amenity area, such as might be used for drying washing, sitting out in, relaxing or socialising, including in the sun. Even if there was a park nearby, such a public space would not be suitable for private amenity use. As a result, these tenants are confined to already diminished internal living conditions.
16. There is little evidence that significant improvement in any of these respects to the existing internal and external configuration of No.21 could be achieved given the current number of flats and tenants.
17. I therefore find that each flat does not provide satisfactory internal and external living conditions for occupants, having regard to the size and quality of space. Consequently, they do not comply with Policy SDP1 of the Local Plan Review 2nd Revision, 2015 (the LPR) which includes that development should not unacceptably affect the health and amenity of citizens.

Housing mix and type

18. There is no dispute that the development plan identifies a need for smaller homes for single person households as well as larger homes for families. Including what I saw, I have no reason to doubt that No.21 was a family sized house suitable for occupation by a single household. I accept there is evidence it was previously used as an HMO, occupied by people sharing it not living as a single family household.
19. However, in this case, where planning permission is required, the change of use to four flats results in the permanent loss of a property that would otherwise be suitable for family occupation. The flats are not, anyway, limited to single persons and short tenancies can result in high turnover of occupants with less enduring presence as part of a local community. This can be noticed by local residents in their surroundings as something distinctly and innately different to family occupation, including that houses occupied by families are usually more settled or established for the longer term.
20. There is also little evidence from the appellant about the mix of houses, flats or HMOs in Coventry Road or the surrounding residential area. Nor of an overriding need for flats as opposed to family sized houses in this particular part of the City and why the flats in this appeal might help to achieve social cohesion with a sustainable or balanced community.
21. I therefore find the appellant has not demonstrated that four flats are an appropriate housing mix or type. Consequently, they are contrary to LPR Policy SDP7 and

Policy CS16 of the Core Strategy, March 2015 (the CS). Amongst other things, they resist a net loss of family homes and include that development should integrate into the local community.

Living conditions - nearby residential properties

22. No.21 could typically be arranged with three bedrooms and be occupied by a two adult and two children family. As a single household there would be a high degree of communal or mutual internal and external living activity, including mainly in downstairs habitable rooms. Also, shared comings and goings to and from the property for a common purpose. The frequency or intensity of such use would be commensurate with this occupation.
23. In contrast, the four flats can be occupied by four to eight adults. Individually or as couples they live independently of each other and separately enter or leave the property for day to day living needs. This concentrated use is also dispersed internally throughout No.21, including the upper floor; so likely next to bedrooms in the other half of this semi-detached property, No.19 Coventry Road and though it is currently in use as an HMO it could revert to a conventional house. While there is little evidence to suggest intensification in the use of the outside amenity area, there is potential for noise or disturbance from this other activity to adversely affect the occupants of No.19 or occupants of other properties around No.21.
24. The Council has powers to control statutory noise nuisance but disturbance can have adverse impact at significantly lower levels for planning purposes. There is no noise survey or other objective evidence in this regard, such as details of internal sound insulation for party walls. The absence of apparent neighbour objection does not mean no intrinsic harm.
25. I am not, therefore, satisfied the appellant has demonstrated that activity associated with these four flats cause no unacceptable harm to the living conditions of the occupants of nearby residential properties, having regard to noise and disturbance. In these circumstances the flats are contrary to LPR Policies SDP1, SDP7 and SDP9. They include that development should not unacceptably affect the health and amenity of citizens, integrate into the local community and respect surrounding land uses and local amenity.

Other Matters

26. The reasons for issuing the enforcement notice included some other development plan policies. Given the outcome of ground (d), some do not need to be considered but the Council has not explained how the others are directly relevant to this case.
27. I accept that tenants may like or need to live in the flats with internal and external space as it is, including because they are affordable and suit particular circumstances or lifestyles. It also no doubt meets aims of the appellant. However, planning operates in the wider public interest, rather than for private benefit or to meet individual needs, preferences or tolerances. While these outcomes can coincide, they do not in this case. Even if upholding the enforcement notice resulted in less flats or tenants, it has not been suggested this would render No.21 incapable of providing residential accommodation, including flats.

Planning Balance

28. I have no reason to doubt that the flats are in demand and meet a certain housing market, so by this means help to meet people's living needs for a home. This is broadly aligned with equivalent objectives of local and national planning policy. The contribution of four flats is modest so this benefit has limited weight.
29. Set against this, the flats undermine the living conditions of those who reside in them, result in an unjustified loss of a family home and I cannot be certain they do not adversely affect the living conditions of those who live next to No.21 or nearby. The harm that four flats cause is such that these considerations carry significant weight.
30. The benefits of four flats do not, therefore outweigh the harm.

Conclusion

31. The flats conflict with the development plan. Other material considerations do not indicate that ground (a) should be determined other than in accordance with the development plan taken as a whole. Consequently, for the reasons given above four flats are unacceptable so ground (a) fails.

Ground (g)

32. For ground (g) to succeed, the appellant must demonstrate that the four month period specified in the notice to take the (corrected) steps required by it falls short of what should be reasonably allowed.
33. Ceasing the use of No.21 as four flats would not require any physical works to the property. It is not uncommon for large family houses to have more than one toilet or shower, especially ensuite to bedrooms or including downstairs. But more than one kitchen would be unusual and could suggest more than single family occupation. Works to remove surplus kitchens in accordance with requirement 5(ii) would not be extensive or overly complicated. There is no apparent reason why the appellant could not instruct these works and they be carried out within the four month period, including to remove materials and debris.
34. However, as a consequence of the requirements, or while they were being complied with, I accept that suitable living arrangements for tenants may need to be made in earnest after the outcome of the appeal, including potentially time to look for an alternative place to live. Although there is little evidence to substantiate that the tenants would be made permanently homeless, these circumstances are not of their own doing and whether known to them or not, there has been a reasonable expectation of success on ground (d) or ground (a) meantime.
35. There is, though, likely to be significant upheaval or uncertainty, including the prospect of tenants losing their home set against a relatively imminent four month deadline. I also take into account that some or all of the tenants would likely have to move out before works to remove kitchens commenced.
36. I have not been informed that the Council had regard to these practical realities or that the period in the notice took them into account.

37. Mindful of these and other relevant considerations¹ (including that I saw a young child asleep in one of the flats) and given the absence of a period suggested by the appellant, I consider that an additional period of two months would be reasonable and proportionate in this case. I therefore intend to vary the notice to this effect. Consequently, the four month period given by the notice falls short of what is reasonable and as a result ground (g) succeeds.

Formal Decision

38. It is directed that the enforcement notice is corrected and varied as follows:

- Section 3 – delete the wording of the alleged breach of planning control and replace with *‘Without planning permission the material change of use of the Land to four flats.’*
- Section 4 – in the first paragraph replace the word *‘breaches’* with *‘breach’*.
- Section 5(iii) – delete the wording of this requirement and replace with *‘Remove all materials and debris resulting from complying with requirement (ii) above from the Land’*.
- Section 5(iv) – delete this requirement.
- Section 6 – delete *‘Four months’* and replace with *‘Six months’*.

39. Subject to these corrections and variations, the appeal is dismissed and the enforcement notice is upheld. Planning permission is also refused on the application deemed to have been made under section 177(5) of the Act.

Robin Buchanan

INSPECTOR

¹ Human Rights Act 1998, Equality Act 2010 (including Public Sector Equality Duty).