



Appeal Decisions

Site visit made on 25 November 2025

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 December 2025

Appeal A Ref: APP/A1910/C/24/3345662

Nash House, Dickinson Square, Hemel Hempstead HP3 9GT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Nash House Development Ltd against an enforcement notice issued by Dacorum Borough Council.
 - The notice was issued on 2 May 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the basement to residential.
 - The requirements of the notice are: 1. Cease the use of the basement space for residential. 2. Remove the kitchen in its entirety including but not limited to all cupboards, oven, hob, all other appliances, fixtures and fittings. 3. Remove the bathroom in its entirety including but not limited to the toilet, sink and shower. 4. Remove all materials and debris from the site arising from steps 1-3 above.
 - The periods for compliance with the requirements are: 1-6 months. 2 and 3-9 months. 4-10 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended). Since the prescribed fee has not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act has lapsed.
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Appeal B Ref: APP/A1910/W/25/3362764

Nash House, Dickinson Square, Hemel Hempstead HP3 9GT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Nash House Development Ltd against the decision of Dacorum Borough Council.
 - The application Ref is 24/01570/FUL.
 - The development proposed is conversion of basement and community use to create 2 x new flats.
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Decisions

1. Appeal A-It is directed that the enforcement notice is corrected by in paragraph 3 deleting 'residential' and substituting it with 'use as a separate residential flat' and varied in paragraph 5, step 1 after 'residential' inserting 'purposes separate from and unrelated to any of the other flats in the building'. Subject to the correction and variation, the appeal is dismissed and the enforcement notice is upheld.
2. Appeal B-The appeal is dismissed.

Preliminary Matters

3. The allegation in the enforcement notice of 'a material change of use of the basement to residential' does not describe with sufficient clarity and precision use as a separate residential flat. It is nevertheless clear that the latter is the material change of use being attacked by the notice. In making their appeal, the appellant expressed no doubts in relation to the use that the notice refers to. Therefore, after seeking the views of the main parties, I shall exercise the powers in s176(1) of the Act to correct any defect, error or misdescription in the notice or to vary its terms, so that the allegation refers to the material change of use of the basement to use as a separate flat. It is also necessary to vary step 1 so that the requirements

reflect the corrected allegation, in the interests of certainty. No injustice would be caused, to the appellant or the Council, in correcting and varying the notice accordingly. The scope of the notice would be no different to what the appellant already understood to be the case and the requirements would be no narrower than the Council intended.

4. My decision in Appeal B takes the revised National Planning Policy Framework (the Framework), which came into force during the course of the appeal, into account.

Appeal A

Ground (f) appeal

5. The ground of appeal is that the requirements of the notice are excessive.
6. Nash House is a two storey Georgian style building which originated circa 1750. A non-designated heritage asset, the building was converted into nine residential flats with a separate community space on the ground floor, following planning permission granted in 2018.¹
7. An enforcement notice can have the purpose of remedying the breach, 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. The notice requires the unauthorised use of the basement as a flat to cease, along with removal of the associated kitchen and bathroom. Complying with those requirements would restore the building to its condition before the unauthorised use commenced. Therefore, although the notice does not state as such, its sole purpose must be to remedy the breach.
8. It is legitimate for a notice directed at a material change of use to require the removal of works integral to and solely for the purpose of facilitating the unauthorised use, even if such works on their own might not constitute development or be permitted development, so that the land is restored to its condition before the change of use took place. There is no need to describe such works in the allegation. The kitchen and bathroom are clearly integral to and part and parcel of the making of a material change of use of the basement to a separate flat. There is no firm evidence that they were installed for a different, lawful use of the basement.
9. Since the kitchen and bathroom facilitate the unauthorised use, varying the notice so as to not require their removal would sustain part of the breach. As the building would then not be restored to its condition before the breach took place, the purpose of the notice would not be achieved. No other alternative to the notice requirements was suggested and to my mind, no other requirement would remedy the breach.
10. Besides, the notice does not prevent the kitchen and bathroom from being used as part of flat 2, in accordance with the recent planning permission.² At s180, the Act provides that where, after an enforcement notice is served, planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.
11. Therefore, the notice requirements are not excessive; they are proportionate, being the minimum steps necessary to remedy the breach. The ground (f) appeal fails.

Ground (g) appeal

12. The ground of appeal is that the time specified for complying with the notice requirements falls short of what should reasonably be allowed.

¹ Council Ref: 4/01679/17/MFA

² Council Ref: 24/01467/FUL

13. Making this appeal has delayed the notice taking effect until the related planning appeal in Appeal B has been determined. As far as I was made aware, no planning application to provide a separate unit of living accommodation in the basement is pending consideration by the Council. The possibility of a further alternative scheme being advanced in future does not represent a sound reason for extending the period for compliance.
14. It is highly likely that the occupiers of the unauthorised flat would be able to search for, secure and move into suitable alternative living accommodation within the six-month period allowed in the notice for ceasing the use. The remedial works would be a small-scale and straightforward task for a suitably knowledgeable and experienced small building contractor. There are probably a significant number of contractors with the relevant knowledge and expertise who would be available to undertake the works, given a reasonable period of notice. In my estimation, such works could be completed well within the three months allowed in the notice for doing so, being unlikely to be much longer than a week or two in duration. There is no evidence before me in respect of these matters which might suggest otherwise.
15. Accordingly, the compliance periods specified in the notice are reasonable and not too short. An appropriate balance is struck between remedying the breach as soon as practicable whilst not placing a disproportionate burden on the appellant. Extending those periods on the other hand would do little more than perpetuate the breach. The ground (g) appeal also fails.

Appeal B

Main Issues

16. The main issues in this appeal are:
 - Whether re-use of the community space as a flat would safeguard social infrastructure, having regard to Development Plan policy.
 - Whether suitable living conditions would be provided for future occupiers of the ground floor flat, having regard to outlook, privacy and noise and disturbance.

Reasons

Whether social infrastructure would be safeguarded

17. The building is located within a recent comprehensive redevelopment of former industrial premises which includes several hundred dwellings. A number of schemes for re-use of the building culminated in the 2018 permission, referred to above. As well as seeking permission for the one-bedroom basement flat in Appeal A, the proposal entails forming an additional one-bedroom flat on the ground floor utilising the permitted community space.
18. Policy CS23 of the Dacorum Core Strategy (CS) encourages social infrastructure which provides services and facilities to the community and seeks to protect existing social infrastructure, unless appropriate alternative provision is made or satisfactory evidence is provided to prove the facility is no longer viable. Saved Policy 19 of the Dacorum Borough Local Plan (LP) supports conversion of non-residential buildings to flats subject to, amongst other things, the retention of necessary local facilities in residential areas of towns and large villages. These policies reflect the support in the Framework for strong, vibrant and healthy communities, including by ensuring accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being.
19. The appellant argued that although envisaged originally as a facility to serve the surrounding development, the community space has been occupied by small-scale

recreation and leisure uses since its formation, with little benefit to local residents. Information was supplied with the appeal which in summary showed that the community space was marketed as being available to let between January 2021 and February 2025 with little or no interest being shown, despite the offer of significant discounts in the proposed rent. My understanding is that until recently the community space was let out to a small leisure business at a substantially discounted rate.

20. Be that as it may, the marketing information supplied does not provide clear and compelling evidence of a lack of demand for the community space. The agent did not explain whether the community space had been marketed proactively, for example by approaching prospective occupiers directly, including local community groups, and/or by sending out the letting particulars, electronically or in the regular post. By itself, placing details on one or more property websites is unlikely to have communicated the community space being available to let to a wide base of potential occupiers. Also, from the limited evidence available I am uncertain whether the community space was marketed at a rental rate which reflects local market conditions. For example, no independent valuation, which might have confirmed that the level of rent sought was appropriate in the context of the use for community or similar purposes, was provided.
21. Furthermore, given that there are likely to be a number of estate agents with experience of the local property market and having regard to the significant length of time over which the community space was marketed, there was no explanation as to why the marketing had been the responsibility of one agent. According to Nash Mills Parish Council, their research suggested that there could be a market locally for a personal trainer gym facility at a commercial rent. Whilst further details of the research were not provided, this nevertheless adds to the uncertainty surrounding the robustness with which the community space has been marketed. Moreover, the use until recently of the community space for recreation and leisure purposes has been of benefit to the local community, albeit at a modest scale, by contributing to a reduction in the need to travel further afield to access such services and supporting a small business.
22. Therefore, based on the available evidence I am not persuaded that the community space is no longer viable, in which case the proposal would not safeguard social infrastructure, being in conflict with the requirements of CS Policy CS23 and criterion in saved LP Policy 19, set out above.

Living conditions

23. The ground floor flat would be laid out to include a living/dining area served by two windows. The smaller of these windows is in the east elevation of the building and faces towards a tall residential property opposite. As the larger window is north facing, with outward views largely dominated by parked cars and hard surface associated with the communal parking area directly in front, in practice the east elevation window would have to contribute significantly to providing a reasonable outlook in the living/dining area, rather than merely providing a secondary source of natural light and ventilation.
24. However, this window is immediately adjacent to timber fencing enclosing a communal bin store. At around 1.8m in height and protruding about 3m from the building, the bin store fencing is a significant built feature in outward views from the window. The considerable overall height and depth of the fencing adjacent to the east elevation window would contribute to the living/dining area having a restrictive outlook, this being emphasised by the absence of good quality outward views from the window in the north elevation. Occupiers of the ground floor flat would therefore experience an appreciable sense of enclosure and oppressiveness in the living/dining area, which would have a somewhat gloomy feel leading to increased reliance on artificial lighting.

25. Also, comings and goings in proximity to the east elevation window, including residents depositing waste items at the bin store and contractors during waste collections, would lead to occupiers of the ground floor flat experiencing a significant sense of being overlooked at close quarters in the living/dining area on occasion. Although closing curtains or blinds would limit incidences of actual overlooking, that would further adversely affect the restrictive outlook. In addition, such comings and goings are likely to result in occupiers experiencing incidences of noise and disturbance in the living/dining area at times, even if the window were to be kept shut. Whilst the body responsible for managing the building might well restrict incidences of waste not being deposited correctly, that ultimately makes little difference in terms of the proximity of the bin store to a window serving the living/dining area in the ground floor flat. The Council's Refuse Storage Guidance Note, which recommends that waste storage areas should, amongst other things, be located away from windows and ventilators, reinforces this and the foregoing concerns.
26. In flat 3, also on the ground floor of the building, the living/dining area is served by a window in the south elevation which faces towards a communal play area, whilst the windows in the east elevation, adjacent to communal bin storage, serve bedrooms. A living/dining area is likely to be in use by residential occupiers throughout the day, including in the evening. Bedrooms on the other hand are more likely to be in use at times such as the late evening and early morning, often when curtains or blinds are closed and when other residents are less likely to access communal bin storage. Consequently, there are significant differences between the layout of the ground floor flat and that of flat 3. Nor are any of the other ground floor flats laid out with the living/dining area windows adjacent to communal bin stores.
27. Therefore, suitable living conditions would not be provided for future occupiers of the ground floor flat. This conflicts with criterion in saved LP Policy 19 which requires the layout of buildings converted to flats to include adequate amenities, also being inconsistent with the Framework which seeks the creation of a high standard of amenity for future users.

Other considerations

28. The building is located within the 500m-12.6km 'zone of influence' of the Chiltern Beechwoods Special Area of Conservation (SAC), where it has been identified that the net increase in residential development results in significant harm to the integrity of the area of nature conservation due to increased recreational disturbance. The Council's approved mitigation strategy requires new residential development within this zone to make financial contributions towards the strategic access management and monitoring strategy (SAMMS) and suitable alternative natural greenspace (SANG) to mitigate unacceptable impacts on the SAC.
29. A copy of a signed, dated and witnessed Unilateral Undertaking (UU) to provide the required contribution to SAMMS and SANG was supplied with the appeal. However, there is no need for me to undertake an appropriate assessment as the proposal is unacceptable for other reasons. Moreover, as the UU relates to circumstances where a different application is granted planning permission sufficient mitigation would not be provided against the impact of the proposal.
30. It is not in dispute that sufficient internal floor space would be provided for the flats, there would be no deficiency in vehicle parking in the absence of the community space and no adverse visual or heritage impacts. I concur. The absence of harm in respect of these matters is a neutral factor which weighs neither for nor against the granting of permission.
31. The proposal would make a welcome contribution to meeting the need for new housing in the Borough, where at 1.37 years there is a substantial shortfall in the five-year supply of deliverable housing land. The contribution towards meeting that

undersupply would be modest, due to the limited number of residential units in the proposal. There would also be a small-scale economic benefit through an increase in construction activity and an increase in the number of residents accessing local services and facilities. Even if an appropriate assessment had concluded that the integrity of the SAC would not be adversely affected however, the negative social and environmental consequences of the proposal, identified in the main issues, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

32. Given my findings set out above, the other matters raised by interested parties do not require further consideration.

Conclusions

33. Appeal A-For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and variation.
34. Appeal B-The proposal would not safeguard social infrastructure, nor would it provide suitable living conditions for future occupiers of the ground floor flat, being in conflict with the Development Plan taken as a whole. There are no material considerations, including the Framework, that indicate the decision should be made other than in accordance with the Development Plan. Therefore, the appeal should be dismissed.

Stephen Hawkins

INSPECTOR