



Appeal Decision

Site visit made on 9 December 2025

by **A Berry MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9th January 2026

Appeal A Ref: APP/P4605/C/25/3358402

Appeal B Ref: APP/P4605/C/25/3358375

Appeal C Ref: APP/P4605/C/25/3358376

1482 & 1482B Pershore Road, Stirchley, Birmingham B30 2NT and 6-18 Ivy Road, Birmingham B30 2NU

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended) (“the 1990 Act”).
- Appeal A is made by Mr J Khera of SAP Investments Limited; Appeal B is made by Mr Saghwat Hussain of Vanguard Direct (Bham) Limited; and Appeal C is made by Mr Saghwat Hussain of Vanguard Supported Housing against an enforcement notice (“EN”) issued by Birmingham City Council.
- The EN was issued on 5 December 2024.
- The breach of planning control as alleged in the EN is: Without planning permission, the unauthorised construction of seven housing units without complying with the conditions of planning approval reference 2020/04302/PA in the approximate position marked in green on the attached plan and the unauthorised use of the units as supported accommodation.
- The development to which the permission relates is: Erection of 7 dwellings with associated parking and landscaping.
- The requirements of the EN are to:
 - 5.1 Permanently cease the unauthorised use of the Premises as supported accommodation;
 - AND**
 - 5.2 Either:
 - a. Demolish the unauthorised units in their entirety; **OR**
 - b. Carry out the following:
 - i. Make alterations to the unauthorised units to comply with the terms and conditions of planning permission reference 2020/04302/PA dated 12 November 2020 including drawing number AP19034-06 Rev G (Proposed Site Plan, Floor Plans and Elevations) and drawing number AP19034-01 Rev A (Location Map);
 - AND**
 - ii. Submit a Landscaping Scheme to the Local Planning Authority for approval in writing by the Local Planning Authority three (3) months after the enforcement notice takes effect and these Landscaping Scheme Works shall be carried out as approved. The Landscaping Scheme shall include details of soft landscape works including proposed finished levels or contours, means of enclosure, hard surfacing materials, minor artefacts and structures, proposed and existing functional services above and below ground, fully annotated planting plans to a scale of 1:100, showing, where used, locations of individually planted trees, areas of woodland, shrubs, hedges, bulbs, and areas of grass. Within ornamental planting areas, plans should be sufficiently detailed to show the locations of different single species groups in relation to one another, and the locations of any individual specimen shrubs. Other information shall include planting schedules, noting species, plant sizes and proposed numbers/densities and details of the proposed planting implementation programme. The Landscaping Scheme Works shall be implemented in accordance with the approved Landscaping Scheme. The Landscaping scheme works shall be implemented within one (1) month of the Landscaping Scheme being approved and thereafter maintained. Any trees or shrubs which, within a period of two (2) years from planting, die, are removed or become seriously diseased or damaged, shall be replaced in the next planting season with others of similar size and species
- 5.3 Remove all building materials and rubble from the Premises as a result of compliance with requirement 5.2 above.

- The period for compliance with the requirements is: Six (6) months after this EN takes effect.
 - Appeal A is proceeding on the ground set out in section 174(2)(a) of the 1990 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 1990 Act.
 - Appeals B and C are proceeding on the grounds set out in sections 174(2)(c) and (f) of the 1990 Act.
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Decision

1. The EN is quashed.

Matters Concerning the Notice

2. The breach of planning control alleged in the EN is *“the unauthorised construction of seven housing units without complying with the conditions of planning approval reference 2020/04302/PA in the approximate position marked in green on the attached plan and the unauthorised use of the units as supported accommodation”*.
3. The allegation refers to a breach of condition subject to which planning permission has been granted. However, it does not specify which condition(s) have been breached, nor does it include a copy of the wording of the condition(s).
4. Reason (4) of the reasons for issuing the EN states a *“failure to comply with condition 11 requiring the incorporation of soft landscaping into the parking area”*. Therefore, it can be presumed that the EN alleges that Condition 11 has been breached. However, it is unclear which other condition(s) have been breached that would equate to reasons (1), (2) and (3) of the EN that refer to the effect of the unauthorised use on the living conditions of the occupiers of neighbouring properties and future occupiers.
5. Furthermore, the appellant states at paragraph 3.1 of their evidence that they have had to *“assume”* for the purposes of the appeal that it is Conditions 1 and 11 that the Council alleges have been breached. Consequently, it is not possible from the four corners of the EN for a recipient to identify which condition(s) they are alleged to have breached or what they must do to remedy the breach of planning control. The EN is therefore ambiguous and uncertain.
6. In addition to a breach of condition, the allegation includes *“the unauthorised use of the units as supported accommodation”*. This constitutes operational development under s171A(1)(a) of the 1990 Act, rather than a breach of condition under s171A(1)(b). The use of *“or”* between (a) and (b) in s171A(1) indicates the alleged breach must fall under one category only. Accordingly, the EN must be corrected to omit one allegation. Based on the limited information before me, I am uncertain which element should be omitted.
7. Even if I was able to correct the breach to omit one of the allegations, the EN’s requirements would necessitate significant re-drafting that would go beyond my powers under s176(1) of the 1990 Act. Furthermore, correcting the EN to omit one of the allegations would necessitate amendments to the plan attached to the EN.
8. The term *“supported accommodation”* is imprecise and uncertain. Consequently, it is not possible for a recipient to determine from the four corners of the EN the material change of use that is being alleged. I could correct this part of the breach to refer to a specific Use Class. However, it is unclear from the EN what that should be.

Conclusion

9. For the reasons given above, I conclude that the EN does not specify with sufficient clarity the alleged breach of planning control.
10. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act, since injustice would be caused were I to do so. The EN is therefore invalid and will be quashed.
11. In these circumstances, the appeals on the grounds set out in section 174(2) (a), (c) and (f) of the 1990 Act and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act do not fall to be considered.

A Berry

INSPECTOR