



Appeal Decision

Site visit made on 17 February 2026 by E Street BSc (Hons) MSc

Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 March 2026

Appeal Ref: APP/A5270/C/25/3358699

7 Niagara Avenue, Ealing W5 4UD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Indira Rani Bhamra against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The notice was issued on 20 December 2024.
 - The breach of planning control as alleged in the notice is “the material change of use of the rear outbuilding to use as a separate self-contained residential dwelling”.
 - The requirements of the notice are to:
 - A. Cease the use of the outbuilding as a separate self-contained residential dwelling
 - B. Remove the kitchen facilities from the outbuilding including all cooking equipment, cupboards, kitchen surfaces and kitchen sink; and
 - C. Remove all resultant debris from the land as a result of compliance with the notice.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) 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.
-

Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under s177(5) of the Town and Country Planning Act 1990.

Appeal Procedure & Preliminary Matter

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal. In addition, a revised National Planning Policy Framework has been published. I am satisfied that the changes do not materially affect the substantive matters of the appeal and that proceeding without further consultation with the main parties would not be prejudicial to their respective cases.

Main Issues

3. The main issues are the effect of the development on a) the character and appearance of the area; b) the living conditions of neighbours in terms of noise and disturbance; and c) the living conditions of current and future occupiers in terms of outlook, internal living space and private external space.

Reasons for the Recommendation

Character and Appearance

4. Local dwellings are a mix of semi-detached and terraced units with small front gardens. Some have side accesses to the rear. The wider streets have similar

development styles whereby gardens back onto each other in a consistent and uniform manner. There are some instances of development within the rear gardens. These appear to be linked with the existing dwellings as ancillary/incidental outbuildings. These features in combination lend a pleasant consistency to built form and a strong impression of primary and secondary use in its hierarchy. This and almost exclusively frontage development contributes positively to the character and appearance of the area.

5. The appeal building was granted a lawful development certificate. This was on the basis it was incidental to the host dwelling. It appears that it has been used as a dwelling for some time with tenancy agreements provided as part of the appeal evidence. As such, it presents as a wholly uncharacteristic form in the locality, unacceptably impinging on the qualities of the area's consistency in this regard.
6. Whilst appearing very similar, the character effects of an additional independent unit as opposed to an incidental outbuilding are fundamentally different. A dwelling functions independently with its own access, comings and goings and curtilage. Allowing such has an undermining effect on the area's established character, forming a jarring additional tier of primary development. Whilst the views are limited from the street, it is highly visible from surrounding neighbouring gardens.
7. As such, the development harms the character and appearance of the area, conflicting with Policy D3 of the London Plan 2021 (LP), Policies 7A, 7B and 7.4 of Ealing's Adopted Development Management Development Plan Document 2013 (EDPD) and Policy DDA of the Draft Ealing Local Plan (Regulation 22). Amongst other things, these seek to ensure high-quality design.

Living Conditions – Neighbouring Occupiers

8. The access to the unit is through the side gate serving the main dwelling. It appears that there is a gate down this access pathway to Number 9 Niagara Avenue and these two properties are separated by a high wall. There are also windows on the side elevation of Number 9 along with the building being overlooked by neighbouring properties to the rear.
9. The independent residential use of the building gives rise to more intensive activity when compared to the more limited and arguably more predictable activity expected from an incidental outbuilding. Resultantly, this leads to an intensification of the side access to the property due to its self-contained nature and it being the only access point. The intensified use of the side access would be perceived mostly by the side windows of the neighbouring property. This is likely to result in unacceptable noise and disturbance due to the shared access and occurrence of use, which would be uncommon and unusual given a typical residential unit would be accessed by the front door to the host dwelling.
10. Resultantly, the development harms the living conditions of neighbouring occupiers, thereby conflicting with Policy D3 of the LP, Policies 7A, 7B and 7.4 of the EDPD, and Policy DDA of the Draft Ealing Local Plan which, amongst other things, seek to ensure that the living conditions of occupiers of properties are protected.

Living Conditions – Existing and Future Occupiers

11. The building only has a single aspect, with windows on one elevation as it faces the rear elevation of Number 7 Niagara Avenue (No. 7). Whilst sufficient for natural

light purposes, the only outlook from the entire of the unit is onto the garden of an independently occupied dwelling. This is at close quarters given the separation distances between the two buildings. This is a very restrictive and oppressive outlook for users of the appeal building. To protect privacy given the independence of the two units, one might use blinds and curtains. Due to the proximity of the two buildings, such are more likely to be closed more of the time. The already poor standard of outlook is therefore further compromised.

12. The building has a kitchen area, bathroom and an open space for a bed, small desk and wardrobes. Only one person is currently living in it. There is some discrepancy between the main parties with regard to the resultant floor space being either 28 or 30 square metres. Notwithstanding, both are in agreement that it would fall short of the National Space Standards as referred to by Policy D6 of the LP.
13. Whilst there is sufficient space for the basic necessities one person would need, I am not sufficiently convinced that the remaining space is enough for someone to have reasonable movement, storage and enjoyment of one's home. I understand that the current resident of the building is satisfied with the level of space, but this is a personal preference and the space standards set out exist to protect the living conditions of all people as a minimum expectation.
14. Currently, the garden space serving the host dwelling is a modest scale notwithstanding the outbuilding to the rear of the garden. It is not subdivided to serve the two properties and is a shared space with no privacy for either property. Both the LP and the EDPD reference minimum standards for private outdoor space which equate to 5 square metres for 1 -2 person dwellings. As the development is a self-contained dwelling, it would be required to have some private outdoor space to allow the occupant(s) to sit outside or have a small washing line for example.
15. The lack of outdoor private space in conjunction with the substandard internal living spaces result in an overall unacceptable living environment for the occupier(s). Whilst it has never been the intention to sell the building off separately, the overarching use of the building is a separate dwelling to which there is no dispute. Any occupier has the right to some private amenity space and a reasonable expectation for a living environment of an acceptable level of quality, which this development does not provide.
16. Resultantly, it does not comply with Policies 7B, 7D and 3.5 of the EDPD, Policy D3, D6 and Table 3.1 of the LP, Policy DDA of the Draft Ealing Local Plan and Planning New Garden Space Supplementary Planning Document which, amongst other things, seek to ensure that the living conditions of the occupiers of properties are protected.

Other Matter

17. I am not convinced that any appropriately worded condition preventing the building from being sold separate to the host dwelling would overcome the harms identified above. This is mainly because it is currently, and intended to be, occupied independently of No 7. Moreover, retaining such a link between the two buildings by a condition would not mitigate the impacts of the development or make it acceptable.

Planning Balance, Conclusion and Recommendation

18. The main parties are in agreement that the Council is unable to demonstrate the supply of housing sites as required by the Framework and thus the most important policies are out of date. I would therefore be taken to the relevant circumstances of paragraph 11. This explains that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
19. The appeal scheme gives rise to the harms I have described above. They are significant and enduring and conflict with the relevant aims of the Framework in specific regard to Section 12 and Paragraph 135. I ascribe these matters substantial weight. The development provides housing, but as it is only one unit, the difference it makes to any shortfall is very limited. There is some social benefit with the dwelling being occupied due to having links to the local area, however this is again limited by the provision of one unit.
20. The development is situated in a sustainable location. However, it does not make effective use of the land and does not result in a contribution to a well-designed place. Just because the dwelling is small and rent might be low, it does not automatically make it affordable. The housing is not secured and managed as such. The benefits therefore attract very limited weight.
21. With this and the above in mind, it is sufficiently clear that the adverse impacts of the development significantly and demonstrably outweigh the benefits in the circumstances I have set out. The presumption in favour of sustainable development does not therefore apply. I have thus been given no other compelling reason, taking into account other material considerations advanced and the approach of the Framework, to make a finding other than in accordance with the development plan with which the development conflicts for the above reasons. I therefore recommend that the appeal under ground (a) should fail and the deemed application for planning permission should be refused.

E Street

APPEAL PLANNING OFFICER

Inspector's Decision

22. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed. The effect of this is that the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under s177(5) of the Town and Country Planning Act 1990 (as amended).

John Morrison

INSPECTOR