



Appeal Decision

Site visit made on 18 August 2026

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2026

Appeal Ref: APP/W5780/C/24/3353209

Land at 3 Highbury Gardens, Seven Kings, Ilford IG3 8AB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr David Paramjit Singh Gill against an enforcement notice issued by the Council of the London Borough of Redbridge.
 - The notice was issued on 5 September 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the change of use of the single family dwellinghouse into four flats.
 - The requirements of the notice are to:
 - i. Cease the use of the property as four self-contained residential units, and
 - ii. Remove additional kitchens and any partitions that facilitates the unauthorised use as four self-contained units and reinstate the single family dwellinghouse.
 - iii. Remove from the land all building materials and rubble arising from compliance with the steps i.ii above.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (d), (f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - 1) Deleting the text in section three and replacing it with the following: "Without planning permission the material change of use from use as two flats to use as four flats."
 - 2) Deleting requirements (i) and (ii) and replacing them with the following: "(i) Cease the use of the property as more than two flats, and (ii) Remove additional kitchens and any partitions that facilitate the use as four flats".
2. Subject to the correction and variations, 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

3. Since the appeal was made the revised National Planning Policy Framework (the Framework) has been published. Both main parties were invited to submit comments on the relevance of the revised Framework to this case. I have taken any comments received into consideration and have assessed this appeal in light of the revised Framework.

The appeal on ground (b)

4. An appeal on ground (b) is a claim that the matters stated in the enforcement notice (which may give rise to the alleged breach of planning control) have not occurred

as a matter of fact. The burden of proof is on the appellant, and the relevant test is the 'balance of probabilities.'

5. There is no dispute that the property is in use as four flats. The appellant's case is that the material change of use was from two flats, not a single dwellinghouse.
6. The appellant provided a letter from the Council dated 13 March 2013 confirming the property has been registered for Council Tax purposes as two separate addresses from at least 1999. They also provided Council Tax bills for 2017/18 for the first floor and ground floor flat at 3 Highbury Gardens. Additionally, there are Land Registry Title documents for both a ground and first floor flat, with leases dating from January and December 2009.
7. There have also been a number of planning applications for extensions to the ground floor and first floor flat, dating from 2013. Indeed, in the officer report in respect of the application for a Lawful Development Certificate (LDC) reference 1367/24, in respect of the use as four flats, there was no suggestion that the former use as two flats was not a lawful use.
8. Accordingly, I find, on the balance of probabilities, that the last lawful use of the property was as two flats. The allegation is therefore inaccurate.
9. It is not necessary for an enforcement notice alleging a material change of use to specify what the change was from. However, having established that the previously lawful use was as two flats, I can correct the allegation as set out without injustice, since this does not change the notice in substance.
10. The appeal on ground (b) succeeds to this extent.

The appeal on ground (d)

11. An appeal on ground (d) is on the basis that, at the time the notice was issued, it was too late to take enforcement action against the matters stated in the notice.
12. To succeed on this ground, the appellant must prove on the balance of probabilities that the property has been used on a substantially uninterrupted basis as four flats for more than four years before the date the notice was issued.
13. The appellant's evidence includes copies of Assured Shorthold Tenancy Agreements (ASTs), three Statutory Declarations, copies of bank statements and invoices for various works to the property.
14. ASTs were provided for all four flats and purportedly show, as noted by the Council, that the ground floor two-bedroom flat has been in use from around February 2019 - February 2024, the ground floor studio flat from March 2018 – August 2025, the first floor flat from March 2018 – February 2023 and the loft flat from February 2018 – May 2024.
15. The appellant clarified that the ASTs roll on as a contractual period tenancy, therefore, although tenants may initially consent to rent the flats for an agreed period, this can be extended, confirming that the flats were occupied at the date of the appeal. For the avoidance of doubt, I saw that the flats were occupied at my visit.

16. The bank statements relate to periods in February and March 2020 and detail payments which correspond with those named in the ASTs for the ground floor studio flat, the two-bedroom ground floor flat and the first floor flat.
17. The appellant's Statutory Declaration is fairly detailed and sets out that work commenced on converting the property into four flats in January 2017, with such work including demolishing parts of the building, erecting an extension at the rear, roof conversion works, including replacing the roof, new double-glazed windows, plastering and decorating. It is stated that the conversion works were completed at the beginning of 2018.
18. The appellant's version of events is generally corroborated by the Statutory Declarations from a neighbour and advisor to the appellant.
19. The Statutory Declarations were properly made, sworn before a solicitor, and those who made them have properly attested to the truthfulness of their evidence.
20. While the invoices relating to 3 Highbury Gardens indicate that a range of internal and external works were carried out around 2017, they do not explain how those works led to the creation of four self-contained flats. In the absence of supporting explanation, little weight can be attached to these documents in support of the appellant's case.
21. When making an appeal on legal grounds, the burden of proof rests with the appellant. However, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss an appeal, provided the appellant's evidence alone is sufficiently precise and unambiguous.
22. In this respect, a Google Streetview image submitted by the Council shows that no work had taken place on the roof in March 2018 – when the conversion to four flats was alleged to have been completed.
23. Moreover, a photograph taken in 2019 by the Council, at the time of determining the planning application for a single storey rear extension and part first floor rear extension¹ shows that the rear dormer extension had not yet been constructed. Additionally, the existing and proposed plans show the property in use as two flats.
24. I find it difficult to accept that the loft flat existed in February 2018 when the roof extension, which it seems would have been necessary to create that accommodation, had not yet been completed. Similarly, while it is not impossible that the ground-floor studio and the ground-floor two-bedroom flat could have existed without the single-storey rear extension, this is difficult to reconcile in the absence of any explanation or supporting layout plans.
25. Moreover, although the Google Earth imagery from March 2020 indicates that the roof extension and other extensions had been completed by that date, the image also shows what appears to be a substantial quantity of building materials stored at both the front and rear of the property. Similar materials remain visible at the front of the property in the Google Street View image from October 2020. The continued presence of these materials suggests that building works were still ongoing, which in turn casts further doubt on whether the development had been completed and occupied in the manner claimed.

¹ 1307/19 conditionally approved on 4 September 2019

26. While much of the contradictory evidence falls outside the relevant four-year period, it nonetheless raises concerns about the reliability of the statements contained within the Statutory Declarations and, to some extent, the ASTs. In particular, ASTs have been provided for the loft flat dated February 2018 and January 2019, despite evidence suggesting that the roof extension had not yet been carried out. The appellant's case is not assisted by the lack of explanation for these inconsistencies.
27. For these reasons, I find, as a matter of fact and degree, that the appellant has failed to provide sufficiently precise and unambiguous evidence to demonstrate, on the balance of probabilities that the use of the property as four flats is lawful. The appeal on ground (d) fails.

The appeal on ground (a) the deemed planning application

Main issues

28. In their appeal statement, the Council raised various matters which were not given as reasons for issuing the notice, relating to the size of the flats. Since the appellant has sought to address this matter in their final comments, I shall consider this.
29. Accordingly, I consider the main issues are whether the flats provide acceptable living conditions for current and future occupiers with particular regard to size, outlook and external amenity space; and the effect on the living conditions of neighbouring occupiers with particular regard to noise and disturbance and the demand for on-street parking and bin storage.

Reasons

30. As I found above, the lawful use of the property is as two flats. This is therefore the appropriate baseline and starting point for the consideration of the appeal on ground (a).
31. Policy LP6 of the Redbridge Local Plan 2015 – 2030 (March 2018) states that the Council will only support the conversion of larger homes into smaller self-contained units (C3) where, relevant to this case, the gross floor area of the property exceeds 180 square metres. The appellant has not sought to demonstrate that the property would comply with this requirement, nor does the conversion provide at least one larger family sized home of 74 square metres (3 bed plus) on the ground floor with access to a dedicated rear garden, as also required by the policy.
32. The Technical housing standards – nationally described space standard and Policy D6 of the London Plan 2021 require that a one bedroom, one person flat provide a minimum of 37 square metres gross internal floor area. The Council say the ground floor and loft flat fall below this standard albeit no figures were provided. The appellant stated the loft flat achieves the 37sqm however, they acknowledge that the ground floor studio falls marginally short at around 36.15 sqm.
33. Whilst only a marginal shortfall, the space standards are minimum standards to be achieved and which the London Plan 2021 encourages applicants to exceed. Accordingly, and as I observed, the ground floor studio flat is undersized, resulting in deficient residential quality to the detriment of the living conditions of occupiers.
34. In respect of the ground floor two-bedroom flat, the living space and kitchen is long and fairly narrow with a modest window and door at the rear/end of the kitchen such that there is little outlook from the living space. Together with the lack of

- outlook from one of the bedrooms, it being served only by lightwells, the overall result is a poor-quality place, which is below the standard of living conditions that occupiers could expect from a self-contained unit of accommodation.
35. The ground floor studio flat is served by a large bay window facing the street which provides good outlook. The loft flat is served by a large window overlooking the rear and two rooflights. Given their multi use space and very modest size, they are adequately served by windows such that there is no harm in respect of outlook.
 36. All rooms, in the first-floor flat are served by a window on an outside wall, either facing the street or the rear and there is no harm in respect of outlook.
 37. Policy LP29 of the Local Plan requires that new development provide external private and/or communal amenity space to meet the needs of occupants by seeking a minimum amount of private amenity space for flatted development; five square metres of private amenity space for a 1–2-person dwelling; and an additional one square metre for each additional occupant.
 38. In this case, only occupiers of the ground floor two-bedroom flat have access to private amenity space. Occupiers of the other flats have no access to either private or communal amenity space.
 39. The submitted evidence shows a public green space, offering various facilities, within a five-minute walking distance of the property. However, this provides a different function to residential amenity space and as such does not provide a substitute.
 40. For the reasons set out above, I conclude that the ground-floor two-bedroom flat would not provide satisfactory living conditions for future occupiers in respect of outlook. The ground floor studio does not provide satisfactory living conditions in respect of space, and neither this, nor the first floor or loft flat, provide satisfactory living conditions for occupiers in respect of access to external amenity space.
 41. The flats do not represent good quality design and are contrary to policies LP6, LP26 and LP29 of the Local Plan and Policy D6 of the London Plan 2021 which together require that development provides high levels of internal and external amenity, high-quality design, and adequately sized rooms.
 42. Whilst the Council raised general concerns regarding noise, car parking and bin storage, no evidence has been provided to indicate that the use has caused local problems in those respects. It appears that the Council only became aware of the use following an application for a license. In other words, the enforcement investigation did not appear to stem from any complaints from neighbouring residents.
 43. No third-party representations have been received in response to the appeal and there is nothing to suggest that use of the property as four flats has had a noticeable effect on the character of the area. Occupiers of the flats are well placed in connection to public transport provision, local shops and services. Therefore, there is no conflict with the overall design and amenity protection aims of policies LP6 and LP26 of the Local Plan.

Other Matters

44. That an HMO license has been issued is of little relevance since licensing serves a different purpose, namely ensuring accommodation meets a minimum standard for human habitation.

Overall conclusion on ground (a)

45. The lack of harm in respect of noise, car parking and bin storage are neutral matters that cannot outweigh the harm and conflict with Local Plan policies LP6, 26, 29 and Policy D6 of the London Plan 2021 in respect of the standard of accommodation.
46. The Framework states that decisions on development proposals should apply a presumption in favour of sustainable development. And, that within settlements, development should be approved, unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the Framework's national decision-making policies.
47. The development would provide a greater choice of housing types and make efficient use of existing housing stock but would make only a very modest contribution to the supply of housing in the borough.
48. Against this, the development does not provide suitable living conditions for occupiers, contrary to the Framework, which requires acceptable living standards for residents in respect of external amenity space. I attach substantial weight to this harm.
49. I find the benefits of granting planning permission would be substantially outweighed by adverse effects, when assessed against the national decision-making policies of the Framework.
50. Consequently, the development would conflict with the development plan taken as a whole, and there are no material considerations which indicate that a decision should be taken other than in accordance with it. Therefore, the appeal on ground (a) fails.

The appeal on ground (f)

51. The appeal on ground (f) is that the requirements of the notice exceed what is necessary to achieve the purpose of the notice. The purposes of an enforcement notice are set out in section 173 of the Act and are to remedy the breach of planning control or to remedy injury to amenity. In this case, I find the purpose is to remedy the breach of planning control.
52. In broad terms, the appellant's case is that the last lawful use was as two flats and therefore the requirements should be varied such that the use as two flats could be reinstated.
53. Section 57(4) of the Act provides that where an enforcement notice has been issued in respect of any development of land, planning permission is not required for its use for the purpose for which it could lawfully have been used if that development had not been carried out.
54. Accordingly, since an enforcement notice cannot require that another activity is carried out and I have found the lawful use to be as two flats, it is excessive to

require the use as four flats to cease and the reinstatement of a single family dwellinghouse. I shall vary the requirements as set out in my decision above.

55. The ground (f) appeal succeeds.

The appeal on ground (g)

56. An appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant suggested a period of 12 months based on the need to allow the existing tenants time to serve their notice, and the time needed to secure the funds and contractors to carry out the works.

57. The purpose of the time period within an enforcement notice is to allow for the use to cease and the physical works associated with the notice to be carried out. The appellant's case is largely based on the time before works can commence, funds be raised and contractors appointed.

58. Whilst I have no doubt that compliance with the requirements of the enforcement notice would, at the very least, represent a significant inconvenience to the tenants, I have no substantive details of the terms of the tenancies held by the current occupiers, particularly in relation to matters such as the notice periods.

59. Consequently, and having regard to my findings under ground (f) I consider six months to be reasonable and proportionate. The appeal on ground (g) fails.

Conclusion

60. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Felicity Thompson

INSPECTOR