



# Appeal Decision

Inquiry held on 19 August 2010  
Site visit made on 19 August 2010

by **Roger Clews BA MSc DipTP MRTPI**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

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**Decision date:**  
**16 September 2010**

## Appeal Ref: **APP/T5150/C/10/2124626** **12A Burton Road, London NW6 7LW**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Raja Adil against an enforcement notice issued by the Council of the London Borough of Brent.
- The Council's reference is E/08/0797.
- The notice was issued on 3 February 2010.
- The breach of planning control as alleged in the notice is: *Without planning permission, the change of use of the ground floor premises from one self-contained flat to three self-contained flats.*
- The requirements of the notice are:
  - STEP 1 Cease the use of the ground floor premises as three self-contained flats and its occupation by more than ONE household.*
  - STEP 2 Remove all bathrooms, except TWO, and all kitchens, except ONE, from the premises.*
- The period for compliance with the requirements is five months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal is dismissed and the enforcement notice is upheld.**

### Application for costs

1. At the inquiry an application for costs was made by the Council against Mr Adil. It is the subject of a separate decision.

### Preliminary matters

2. The appeal was originally made on grounds (a) and (d), but the ground (d) appeal was withdrawn at the inquiry and the appeal proceeded on ground (a) only.

### Main issue

3. The main issues in the appeal on ground (a) are:
  - (a) whether the three self-contained flats the subject of the enforcement notice provide satisfactory living conditions for their occupants; and
  - (b) whether or not the development has led to unacceptable pressure being placed on local transport, open space and education facilities.

## Reasons

### *Living conditions in the three self-contained flats*

4. Policy H18 of the *Brent Unitary Development Plan 2004* states that *Flat conversions should provide an acceptable standard of accommodation for future residents*. It goes on to set out a series of criteria, which include the following:
  - (b) *All rooms should have regard to room size standards (SPG17);*
  - (c) *The units should have adequate circulation and storage space;*
  - (g) *Where practical secure cycle storage (PS16) should be provided;*
  - (l) *The subdivision of floors between flat units will be permitted only where the size and layout of units is satisfactory and no units have a solely north facing aspect, or include wholly internal kitchens.*
5. The Council's Supplementary Planning Guidance *Design Guide for New Development*, referred to in criterion (b) as *SPG17*, was adopted in October 2001. Evidence was produced at the inquiry to show that it was the subject of appropriate consultation and consequent amendments prior to adoption and I can give it substantial weight as a material consideration in this appeal.
6. The three self-contained flats which are the subject of the enforcement notice are on the ground floor of 12 Burton Road which, as the appellant's drawing No 100224/01 indicates, was previously laid out as a self-contained two-bedroom flat. Each of the present flats is a studio unit containing one main room and a separate shower and toilet room. The internal floor-space of each is significantly less than the minimum unit size of 33sqm for studio flats set out in section 3.5 of SPG17.
7. While these floor-space standards are a guide rather than an absolute requirement, I found during my site visit that, because of their small size, the space within them feels cramped and inadequate, particularly in the two rear units (Flats 1B and 1C). Despite the assertion at the inquiry by the appellant's representative that each flat contains a table and chairs at which meals could be taken, I saw no evidence of this in flats 1B or 1C, nor of adequate space in which such provision could be made. While both those flats contain a kitchen area, a bed and a wardrobe and/or chest of drawers, there is little space to move about between the furniture, and this adds to the general sense of confinement.
8. Section 3.5(d) of SPG17 sets out recommended minimum storage space for residential units. I was shown understairs storage space which is available to the rearmost flat. But the other two flats have no dedicated storage space, contrary to criterion (d) of policy H18, and I consider that this also contributes to the cramped and cluttered feeling within them.
9. Flat 1A, at the front of the house, has a large south-facing bay window which admits adequate natural light. By contrast, however, flat 1B has a single, medium-sized north-facing window, and so conflicts with criterion (l) of policy H18. As a consequence, I saw that even with its high ceiling, and with the window blinds open, the room was gloomy. Flat 1C has windows to the side

(west) as well as to the rear (north), but it was also quite gloomy, due to its low ceiling and the fact that the side windows face the side of the next-door house at close quarters. While my site visit took place on an overcast day, I consider that because of the north-facing aspect of flat 1B, and the predominantly north-facing aspect of flat 1C, even a sunny day would make little difference to the sombre conditions within those two flats.

10. For these reasons I conclude that the three self-contained flats the subject of the enforcement notice do not provide satisfactory living conditions for their occupants. They thereby conflict with UDP policy H18, as well as with the objective, set out in section 3.5 of SPG17, of creating a well-designed home environment, composed of spaces that are attractive, usable and fully accessible.

*Local transport, open space and education facilities*

11. The Council's Supplementary Planning Document (SPD) *S106 Planning Obligations* was adopted in October 2007. As it was prepared in accordance with statutory procedures, it carries substantial weight as a material consideration in the appeal. It proposes a standard charge to be applied to each development to mitigate the additional pressure placed on physical, social and economic infrastructure. The contributions raised are to be applied to education, transport, public space and sport improvements in the local area.
12. National policy guidance in Circular 05/2005 sets out five tests for planning obligations, including that they should be necessary to make the proposed development acceptable in planning terms, and directly related to the proposed development. Regulation 122 of the *Community Infrastructure Levy Regulations 2010* sets out similar requirements.
13. The conversion involves a change from one two-bedroom flat to three studio flats. I agree with the Council that the more intensive accommodation now provided is likely to place increased pressure on local facilities. The need for contributions to mitigate that increased pressure is justified by the SPD, and such contributions would comply with the Circular 05/2005 and statutory tests.
14. An executed Unilateral Undertaking has been submitted by the appellant which would secure contributions as required by the SPD, in the event that planning permission is granted. I therefore find that the development complies with UDP policies TRN4, OS7 and CF6, as it secures adequate mitigation for the additional pressure which it places on local transport, open space and education facilities.

**Other matters**

15. The Council were concerned that the three studio flats might give rise to noise and disturbance to other residents in the building, due increased comings and goings, and to the studio flats being "stacked" under or over bedrooms on other floors. But there was no evidence of any complaints on this score, nor was I given any specific details of where such "stacking" conflicts occur. I therefore find that no material harm arises in this respect. But this finding does not overcome the harm I have identified under the first main issue in this appeal.

16. Given the small size of the flats and the availability of good public transport facilities nearby, I find that no harm arises from the absence of off-street parking provision. But the development also fails to provide cycle storage in accordance with the Council's adopted standards, contrary to criterion (g) of policy H18 and to the national policy objective of encouraging the use of more sustainable forms of transport. While this might not in itself justify dismissing the appeal, it adds further weight to my concerns about the cramped and unsatisfactory standard of accommodation provided by the development.
17. The appellant's representative presented evidence, including from the Council's own UDP and Private Sector Housing Strategy, of a high level of housing need among single people in the borough, including members of the migrant workforce. This is reflected in the fact that, as he explained, there was no difficulty in letting the three studio flats at 12A Burton Road. But I consider that the existence of this need, and any contribution which these flats make towards meeting it, does not outweigh the harm caused by the unsatisfactory living conditions provided for their occupants.
18. I was told that the adjacent premises at 4-10 Burton Road house asylum seekers in smaller rooms than the studio flats which are the subject of this appeal. Whether or not that is the case, it does not justify the failure of the latter to provide satisfactory living conditions for their occupants, contrary to development plan policy.

### **Conclusions**

19. On the first main issue, I have found that the three self-contained flats fail to provide satisfactory living conditions for their occupants. I consider that the harm thereby caused is sufficient to warrant dismissing the appeal, notwithstanding my conclusion on the second main issue that the development does not place unacceptable pressure on local transport, open space and education facilities. For the reasons given above, therefore, and having had regard to all other matters raised, I conclude that the appeal against the enforcement notice on ground (a) should fail.

### **Formal decision**

20. I dismiss the appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*Roger Clews*

Inspector

## APPEARANCES

### FOR THE APPELLANT:

Mr Juan Lopez of Counsel

He called  
Mr Aamir Sultan BSc Property Manager, Adilsons Properties Ltd

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Nigel Wicks Director, Enforcement Services Ltd

He called  
Mr Victor Unuigbe Planning Enforcement Officer, Brent Council  
BSc(Hons) MSc

### DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Extracts from section 5 of the Brent UDP and from the Council's Private Sector Housing Strategy 2005-2010
- 2 Brent UDP cycle parking standards (PS16)
- 3 Report of the Council's Public Services Deciding Committee, 31 October 2001, concerning the review of Supplementary Planning Guidance Notes 5 and 17
- 4 Copy of the Council's Supplementary Planning Document *S106 Planning Obligations*, adopted October 2007
- 5 Heads of Terms for Unilateral Undertaking in respect of the ground (a) appeal
- 6 Statutory declaration by Mr Jim Lyons dated 3 March 2010
- 7 Statement of Gary Davies
- 8 Statement of Jim Lyons
- 9 Quotation dated 14/11/08 and invoice dated 09/01/09 from Perfect Builders UK Ltd for works at the appeal property
- 10 Bundle of agents' fees and commission invoices relating to the appeal property from North West Properties.com Ltd and Annandvilla Estate Agents
- 11 Companies' House Register extract dated 18/8/10 for Perfect Builders UK Ltd
- 12 Copy of email correspondence between Mr Adrian Peggie of the Council and Ms Claudete Tomaselli
- 13 Copy of email and photos from Mr Aidan O'Sullivan of Flat B, 12 Burton Road