

SEE  
APPEAL.

NOTICE "B"

RE: 111 ALBANY ROAD, HORNCHURCH

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990  
(As amended by the Planning and Compensation Act 1991)

**ENFORCEMENT NOTICE**

- TO:
1. The Owner of the said land
  2. The Occupier of the said land
  3. Mr John David Madden, 11 Kent Drive, Hornchurch, RM12 6TD
  4. J&R Builders, 11 Kent Drive, Hornchurch, RM12 6TD ✓
  5. Mr Ronald Powell, 103 Pettits Lane, Romford, Essex
  6. Mr Ronald Powell, 11 Kent Drive, Hornchurch, RM12 6TD
  7. Company Secretary, National Westminster Bank PLC, 47 High street, Braintree, Essex CM7 7JT

**ISSUED BY:** London Borough of Havering

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to the Council that there has been a breach of planning control, under Section 171A(1)(a) of the above Act, at the land described below. They consider that it is expedient to issue this Notice, having regard to the provisions of the development plan and to other material planning considerations.

2. **THE LAND AFFECTED**

The land at 111 Albany Road, Hornchurch shown edged in black on the attached plan ("the Land").

3. **THE BREACH OF PLANNING CONTROL ALLEGED**

Without planning permission, the construction of a single storey front extension and insertion of a new flank door.

4. **REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has occurred within the last four years. The unauthorised development in question was substantially completed less than four years ago. The single storey front extension,

by reason of its size and bulk appears as an unduly obtrusive and prominent feature in the streetscene to the detriment of its setting and appearance. It is contrary to the London Borough of Havering Supplementary Design Guidance (Residential Extensions and Alterations) and DC61 of the Local Development Framework Development Control Policies Development Plan Document.

#### 5. WHAT YOU ARE REQUIRED TO DO

- (i) Remove the unauthorised front extension.

Time for compliance: 6 months from the effective date of this notice.

- (ii) Remove all materials resulting from compliance with (i) from the Land.

Time for compliance: 6 months from the effective date of this notice.

- (iii) Restore the front of the property on the Land to its former condition prior to the breach.

Time for compliance: 6 months from the effective date of this notice.

#### 6. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 2<sup>nd</sup> February 2010, unless an appeal is made against it beforehand

Dated: 22<sup>nd</sup> December 2009

Signed:



Authorised Officer

on behalf of London Borough of Havering  
Town Hall  
Main Road  
Romford RM1 3BD

#### YOUR RIGHT OF APPEAL

You can appeal against this Enforcement Notice to the Secretary of State by the 2<sup>nd</sup> February 2010. Further details are given on the information sheet from the Planning Inspectorate which accompanies this Notice. The enclosed booklet "Enforcement Appeals - A guide to Procedure" also sets out your rights.

#### WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this Enforcement Notice, it will take effect on 2<sup>nd</sup> February 2010 and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in the Notice.

**FAILURE TO COMPLY WITH AN ENFORCEMENT NOTICE WHICH HAS TAKEN EFFECT CAN RESULT IN PROSECUTION AND/OR REMEDIAL ACTION BY THE COUNCIL.**

### EXPLANATORY NOTES

#### **STATUTORY PROVISIONS**

A summary of Sections 171A, 171B and 172 to 177 of the Town and Country Planning Act 1990 (as amended) is enclosed with this Notice.

#### **YOUR RIGHT OF APPEAL**

You can appeal against this Notice, but any appeal must be in writing and received, or posted (with the postage paid and properly addressed) in time to be received in the ordinary course of the post, by the Secretary of State before 2<sup>nd</sup> February 2010. The enclosed booklet "Enforcement Appeals - A guide to Procedure" sets out your rights. Read it carefully. If you appeal you should use the enclosed appeal forms. Two copies are for you to send to the Secretary of State if you decide to appeal. The other is for you to keep as a duplicate for your own records. You should also send the Secretary of State a copy of the Enforcement Notice.

#### **GROUND OF APPEAL**

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds:-

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) that copies of the enforcement notice were not served as required by section 172;
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control

which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

(g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

### PLANNING APPLICATION FEE

Should you wish to appeal on ground (a) - that planning permission should be granted for the unauthorised development - then a fee of £150.00 is payable both to the Secretary of State and to the Council, the total fees payable would be £300.00. If the fees are not paid then that ground of appeal will not be valid.

### STATEMENT ON GROUNDS OF APPEAL

You must submit to the Secretary of State, either when giving notice of appeal or within 14 days from the date on which the Secretary of State sends him a notice so requiring him, a statement in writing specifying the grounds on which you are appealing against the enforcement notice and stating briefly the facts on which you propose to rely in support of each of those grounds.

### RECIPIENTS OF THE ENFORCEMENT NOTICE

The names and addresses of all the persons on whom the Enforcement Notice has been served are:

- TO:
1. The Owner of the said land
  2. The Occupier of the said land
  3. Mr John David Madden, 11 Kent Drive, Hornchurch, RM12 6TD
  4. J&R Builders, 11 Kent Drive, Hornchurch, RM12 6TD
  5. Mr Ronald Powell, 103 Pettits Lane, Romford, Essex
  6. Mr Ronald Powell, 11 Kent Drive, Hornchurch, RM12 6TD
  7. Company Secretary, National Westminster Bank PLC, 47 High street, Braintree, Essex CM7 7JT

At 1030hrs Tuesday 22nd December 2009,  
I attended 11 Kent Drive Hx and served  
a copy of the attached Notice addressed to  
J+R Builders by posting it through the  
letter box

*V. Jones*



Scale @ A4 1:429

 **Havering**  
LONDON BOROUGH



London Borough of Havering  
Town Hall, Main Road  
Romford, RM1 3BD  
Tel: 01709 434343

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## Appeal Decisions

Site visit made on 12 April 2011

by **D E Morden MRTPI**

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

Decision date: 11 May 2011

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### **Appeal A: APP/B5480/C/10/2121704**

**111 Albany Road, Hornchurch, Essex, RM12 4AG**

- 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 M J Madden against an enforcement notice issued by the Council of the London Borough of Havering.
- The Council's reference is ENF/191/09/HY.
- The notice was issued on 22 December 2009.
- The breach of planning control as alleged in the notice is the change of use from a dwelling house to a house in multiple occupation.
- The requirements of the notice are to (i) stop using the property on the land as a house in multiple occupation; (ii) restore the property on the land to a condition that would enable its use as a single dwelling house and (iii) remove from the land all rubble (including building materials) resulting from compliance with (ii) above and all apparatus, equipment and machinery brought on to the land to achieve compliance with (ii) above.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. The deemed application for planning permission also falls to be considered.

**Summary of Decision: The appeal is dismissed and the enforcement notice is upheld as set out in the Formal Decision at paragraph 20 below.**

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### **Appeal B: APP/B5480/C/10/2121705**

**111 Albany Road, Hornchurch, Essex, RM12 4AG**

- 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 M J Madden against an enforcement notice issued by the Council of the London Borough of Havering.
- The Council's reference is ENF/558/08/HY.
- The notice was issued on 22 December 2009.
- The breach of planning control as alleged in the notice is the construction of a single storey front extension and the insertion of a new flank door.
- The requirements of the notice are to (i) remove the unauthorised front extension; (ii) remove all materials resulting from compliance with (i) from the land and (iii) restore the front of the property on the land to its former condition prior to the breach.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. The deemed application for planning permission also falls to be considered.

**Summary of Decision: The appeal is allowed and the enforcement notice is quashed as set out in the Formal Decision at paragraph 21 below.**

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### **Procedural Matters**

1. The appeals concern two entirely different things at this site (a single storey front extension plus a new side door and a change of use of the whole building) and I shall, therefore, deal with them separately when considering the ground (a) appeals as they involve different issues. I shall also deal with Appeal B first.
2. In the appellant's final representations there is a somewhat confused request which appears to state that the appellant wishes the extension, the subject of appeal B, not to be considered when dealing with the change of use appeal (Appeal A). Appeal A is to determine whether the use is acceptable in the building as it now is and an amendment to consider it in the building without the extension is not an amendment that can be considered at this very late stage; neither the Council nor those making representations have had the opportunity to comment on that amendment.
3. Further, there is little material difference internally as a result of a small projection forward creating rooms at the front that are about 0.75 of a metre larger internally plus (in both) a small bow window. I shall, therefore, determine Appeal A on the basis of the building as it exists on site.

### **Appeal B – 2121705 (the operational development allegation)**

#### **Main issue**

4. I consider that the main issue in this appeal, having regard to the objectives of the prevailing policies of the approved Development Plan, is whether the development materially harms the appearance of the street scene.

#### **Reasoning**

5. Policy DC61 of the Council's Local Development Framework, Development Control Policies Development Plan Document (DPD) adopted in October 2008 states that permission will only be given to development that maintains, enhances or improves the character and appearance of the local area.
6. The officer's report to committee in June 2009 (which refused the application for the front extension) stated that front extensions can have a considerable impact on the street scene and are, therefore, normally limited to a depth of 1 metre. The extension is only 1 metre deep measured externally and the two bow windows project forward only a further 0.3 metres. The extension is well designed with a sloping roof and sits back far enough from the back edge of the footway to appear acceptable in the street scene as one approaches the dwelling from either direction.
7. Whilst the roof tiles and window designs match the existing property, the extension has been finished in a red brick whereas the rest of the property is rendered. Subject to the extension being rendered and finished to match the walls of the main house the extension meets the objectives of the relevant policy in the DPD and should be approved. The Council has not included in its requirements the removal of the side door. It creates a secondary access to the property from the ground floor kitchen and I can see no objection to adding that single door to the south elevation which faces Adelphi Crescent. In these circumstances I shall allow this appeal and quash the Notice. The appeal on ground (g) does not, therefore, fall to be determined.

## **Appeal A – 2121704 (the material change of use allegation)**

### **Main Issue**

8. I consider the main issue in this appeal, having regard to the objectives of the prevailing policies of the approved development plan is whether the development materially harms firstly, the living conditions of adjoining residential occupiers and secondly, highway safety in the area.

### **Reasoning**

9. Dealing with the first main issue the house is a semi detached property and there are two rooms on each floor that abut the party wall with number 109 Albany Road. One room is a shower room (on the ground floor) and the other three are bed sitting rooms; as the houses are 'handed' the upstairs of 109 has two bedrooms adjoining the two upstairs bed sitting rooms and downstairs is a lounge at the front and a dining room at the rear.
10. At the visit I saw that all the rooms had a television and most had radios and equipment to play music in some form. The appellant pointed out that he had put the wardrobes against the party wall in the relevant rooms but there is no way such an arrangement could be enforced. Further, there was nothing in the representations that supported the contention that this would reduce noise nuisance for the occupiers of 109, particularly in their first floor bedrooms.
11. Apart from the problem of 'living rooms' being on the opposite side of a party wall from bedrooms, the noise from the house in general is likely to be higher with 10 'living rooms' in the property than one would expect if it was in single family occupation. Whilst I acknowledge that there may not be an in principle objection from the Council to such a use, it does not, as set out in the Notice, meet the criteria set out in Policy DC4 of the DPD. In particular living rooms should not abut bedrooms in adjoining properties and houses in multiple occupation should generally only be allowed in detached properties. In all cases the use should not give rise to noise nuisance and disturbance to adjoining occupiers.
12. The use has given rise to objections (including some that are not relevant to this appeal as they concern possible uses that others fear may be contemplated) including those regarding noise and nuisance. Taking all these factors into account I consider it is an unacceptable use of this particular property and should not be allowed.
13. Turning to the second issue, the area in front of the property can accommodate two vehicles and I acknowledge that there is a large rear garden that has an access and dropped kerb to Adelphi Crescent so more vehicles could be parked in the rear garden area. The property has a long side boundary to Adelphi Crescent and has room for two cars to be parked in the front garden area, at least six along the side boundary and room for more in the rear garden.
14. Adelphi Crescent is wide enough to accommodate vehicles parked on one side without causing any undue interference with the free and safe flow of traffic. Even if all the occupants owned a car (and that is not usual with this sort of use), I do not consider that the use would cause any danger to highway safety in the area. Whilst the objection to the use on the second issue cannot in my view be substantiated, the increase in the number of vehicles (and ownership of a vehicle by the occupants could not be forbidden even if this type of use

does not normally generate 100% occupiers who have cars) does add to the noise and general disturbance suffered by those living nearby. Some objections detail the high level of vehicle ownership at the property at the present time. That adds weight to the objection to this use on the first issue.

15. I recognise that there were many objections to the use as well as a petition with many signatures. Some of the objections concerned the behaviour of the particular occupants of the property and were also concerned with possible future uses but these are not matters for me; there is other legislation to deal with behaviour and other uses would require planning permission and be under the control of the Council. There were also objections concerned with the extensions that have taken place but the large two storey side and single storey rear extensions have already been approved by the Council.
16. Taking all these factors into account, I conclude that the use is unacceptable and should not be permitted. I will, therefore, dismiss the appeal and uphold the enforcement notice.

### **The appeal on Ground (g) – Appeal A**

17. The appellant has simply stated that it would normally take six months to get people re-housed and carry out the works contained in the requirements. There is nothing else in the representations that indicates there would be any tenancy agreement problems in complying with the requirements or that they could not be achieved in the three months specified. The Council's representations confirm that three months is sufficient to meet the requirements and in the absence of any evidence that it is an unreasonable period I shall uphold the requirements as set out in the Notice. The appeal on this ground accordingly fails.

### **Conclusions**

18. For the reasons given above I conclude that Appeal A should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.
19. For the reasons set out in paragraphs 5 -7, I conclude that Appeal B should succeed on ground (a) and planning permission will be granted. The appeal on ground (g) in respect of Appeal B does not, therefore, need to be considered.

### **Formal Decisions**

#### **Appeal A – APP/B5480/C/10/2121704**

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.

#### **Appeal B – APP/B5480/C/10/2121705**

21. I allow the appeal, and direct that the enforcement notice be quashed. I grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the construction of a single storey front extension and the insertion of a new flank door on land at 111 Albany Road, Hornchurch, Essex, RM12 4AG referred to in the notice, subject to the following condition:

- 1) Unless, within three months of the date of this decision, the walls of the extension hereby permitted have been rendered to match the walls of the existing property, the extension shall be demolished and the front of the property returned to its previous appearance before the extension was built.

*D E Morden*

INSPECTOR