



Appeal Decision

Hearing held on 4 April 2006

by **D Roger Dyer** BA DipArch RIBA FCI Arb Barrister

an Inspector appointed by the First Secretary of State

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Appeal Ref: APP/B5480/C/05/2004185

78 Retford Road, Harold Hill, Romford RM3 9ND

- 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 Amir Yosef Laniada against the enforcement notice issued by the Council of the London Borough of Havering.
- The Council's reference is ENF1302.
- The notice was issued on 12 September 2005.
- The breach of planning control as alleged in the notice is "without planning permission the change of use of a single residential dwelling to three flats".
- The requirements of the notice are:
 - "(i). Stop using the property as flats and return it to a single residential dwelling".
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b) and (g) of the 1990 Act.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld as corrected and varied in the Formal Decision below.

Preliminary matters

1. The appeal property is a two-story house with three bedrooms. It lies in a residential area comprising mainly small semi-detached and terraced houses developed in the second half of the 20th century. Planning permission was granted in April 2004 for a porch extension, the provision of a garage and a single storey rear extension of the appeal property. However the plans stamped "approved" do not show a garage, nor has a garage been built.

The appeal on ground (b) that the development has not taken place

2. The case for the appellant is that the property has not, as a matter of fact, been converted into three flats (that is, self-contained units of accommodation). There are two self-contained flat units on the ground floor but the rest of the property is occupied on a shared basis. These comprise individual rooms with a shared bathroom and wc on the first floor and a shared kitchen on the ground floor with another room in the roof space. In that respect the appellant says the enforcement notice must be amended.
3. The Council accepts that the enforcement notice will have to be amended to recognise that there are two self-contained flats on the ground floor together with three bedrooms on the first floor and another bedroom in the loft area.

4. At the hearing the parties agreed that the enforcement notice should be corrected to reflect the arrangements within the property. Both parties expressed the view that the correction in the terms set out in the Formal Decision below would cause no prejudice or injustice to their respective cases. Accordingly I shall make the correction sought.

The appeal on ground (a); that planning permission should be granted

The main issues

8. The principal considerations in this ground of appeal are first, the effect of the alleged use on the residential amenity of the area in terms of noise, traffic movement and its visual impact; secondly, its effect on on-street parking; and, thirdly, the living conditions of the occupants.

The appellant's case

9. The appellant's first submission on this ground of appeal is that planning permission should be granted because local residential amenity has not been adversely affected. Few of his tenants have, or have had, motor vehicles. The accommodation appeals to people of limited means and there are good transport communications nearby, mainly buses, as well as easy access to local shops and other services. Besides, he says there is an extensive driveway that is kept available for car parking. Two cars are normally parked on the drive; one belongs to a tenant and the other is used by the appellant when he is in this country. An appropriate condition could maintain that facility. The appellant has drawn my attention to Government advice in PPG3 and PPG13 that encourages significantly lower levels of off-street parking, with particular emphasis on developments involving the conversion of housing where off-street parking is less likely to be successfully designed into the scheme. In that regard the appellant says the Council's UDP, adopted in 1993, is out of date.
10. As to noise, the appellant says there have been no complaints from neighbours or others. References are taken up before any tenant is granted a lease. A suitable condition could be imposed to prohibit external storage. Externally there is no visual impact and nothing to indicate that the property is in multiple occupation. The conversion has changed nothing while other similar properties in Retford Road have frontages devoted to hard-standing. There is no overlooking of nearby property.
11. In the appellant's submission the accommodation contributes to meeting the substantial demand for moderately priced rented accommodation in Romford. The lack of low cost accommodation for workers on average pay levels is a major social constraint in Romford and the wider Essex area. While the tenants are in gainful local employment, their earnings do not allow them to gain access to the ordinary housing market. The occupiers of the flats have each signed six month Shorthold tenancy agreements while the other occupiers of the building have contractual licences on a six-month basis. Only adults are taken on as tenants. The property is managed by neighbours resident in the adjoining property. They provide additional resources including television and DVDs as well as the cleaning of common parts, gardening, ensuring rubbish is collected and internal and external decoration. This ensures affordable and clean accommodation which is well maintained. The appellant says the presence of the managers is a source of major reassurance to neighbours that the property is and will continue to be well managed without any disturbance of local residents.

12. In the appellant's submission the principle of providing this sort of accommodation is encouraged by PPG3, suggesting that Local planning authorities should promote such conversions by taking a more flexible approach to standards of density, car parking, amenity space and overlooking. On behalf of the appellant it is suggested that such conversions may not be entirely convenient but should be addressed to a grave shortage of affordable accommodation. In this case when a unit became vacant recently the appellant says he had scores of applicants. Experience shows that the accommodation provided here is reasonably acceptable.

Reasons

Residential amenity

13. At my site inspection I saw that the property is cramped. As to parking, while not all of the present occupiers may have cars, in today's society there is a potential for all to have their own transport. The Council's parking standards are based on the UDP that predated PPG3 and, accordingly I am guided by the latter advice. Having regard to the Government's objectives, the Council says that it would accept the provision of 4 on-site parking spaces. In my judgement that is unlikely to be achieved without inconvenience and if it were, the appearance of the property would be cluttered by vehicles to the detriment of the street scene. Besides, in my opinion the constant coming and going of so many cars would create noise and disturbance for local residents. I appreciate that there is a dental surgery opposite the site and that there would be a good many cars visiting there but such activity would be confined to normal working hours. In contrast the arrival and departure of vehicles that belong to tenants would disturb neighbours over a longer period. It appears that in this case complaints of such disturbance have been made by nearby owners.

On street parking

14. It was clear to me that this is an area where on-street parking is problematic. My site inspection was conducted in the middle of the day when many car-owners have taken their vehicles to work. Nevertheless there were few parking spaces readily available and experience shows that in the evenings the road would fill with cars. The roads are narrow so that cars are encouraged to park partly on the pavements.
15. With so many potential car-owners housed in one small property where there is limited on-site parking provision, I consider it inevitable that the difficulties of on-street parking would be exacerbated. I appreciate that there are regular buses into Romford from stops nearby and that Harold Wood station lies within walking distance. Nevertheless in my judgement the fact that so many adults are housed in this property could lead to parking demand with an effect on roadside parking. Accordingly, on this issue I do not consider that the appeal should succeed.

Living conditions

16. Inspection of the property revealed to me that each of the six units were cramped and ill-conceived in terms of space, light, and convenience. The most generous unit is the one-bedroom flat on the ground floor. While that flat provides more space than the other units, its outlook is diminished by cars parked against the window of the bedroom at the front. The only natural light available to the main living area is restricted by the position of the shower room and kitchen so that for usual purposes electric light has to

be employed and the outlook is similarly restricted. The shower room is also confined to the minimum area possible.

17. The other flat on the ground floor has been fashioned out of a narrow corridor between the original house and an external store. I am told that it has a floor area of about 20 sq.m., and that it is occupied by a couple. It is entered through a kitchenette that opens onto a living area of minimal proportions. I do not consider that the space available or the facilities are suitable as living conditions for normal human dignity.
18. The other units on the first floor are similarly congested and uncomfortable. While they share bathroom and kitchen facilities, it is my judgement that they are under-sized and contrived. The last unit in the roof-space is approached by a narrow steep ladder-like stair and has limited headroom in the centre with a sloping ceiling to the sides. Again that accommodation is hemmed in.
19. Overall, I consider the accommodation is unsuitable for housing the number of occupiers in the building. The property is small by general modern standards and does not lend itself to multiple occupation in terms of size and layout. I am told that there are also problems with the escape of noise to adjoining properties and a question of sound insulation between common parts and habitable rooms. Although it is submitted on behalf of the appellant that the latter point could be rectified by an appropriate condition, I have come to the conclusion that there is a combination of factors in this case which would make it difficult to frame a condition that would meet the constraints that have to be addressed here. The appellant has put forward other suggested conditions concerning, among other things, the retention of a smaller number of units, prohibition of the use of the roof-space and a scheme that would address other shortcomings in the present arrangements. In my judgement, though, the property is so cramped and inferior that such conditions would not adequately address the drawbacks I have referred to above. While the UDP is largely out of date, the standard of accommodation falls grievously short of the criteria set out in policies ENV1 and HSG7. The conversion of houses to flats can have undesirable effects on residential areas, particularly areas of family housing. In this case the scheme affects the amenity of neighbours in adjoining properties by way of disturbance and inadequate on-site parking. In the particular circumstances of this case the appeal on ground (a) must fail and I shall not grant planning permission under section 177(5) of the Act.

The appeal on ground (g): that the period for compliance is too short

20. The appellants' case on this ground is that at least six months is required because of the difficulties of the local housing market and the limited means of the occupiers. The compliance period should be geared to the tenancy agreements and contractual licences, which would not have expired within the period specified in the notice.
21. The Council disputes the appellant's assertion that it would take six months to restore the property in terms of physical work. It says six months would be excessive. It is not willing to allow the situation to become further protracted and concludes that any necessary works could be undertaken within three months.
22. In general I acknowledge that there may be some difficulty in relocating tenants who may be protected by the formal agreements and might not readily obtain alternative accommodation. Accordingly I shall vary the period for compliance to six months. To

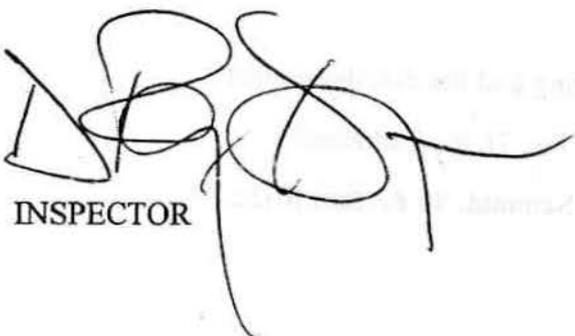
that limited extent the appeal on ground (g) succeeds.

Conclusions

23. The use currently made of this small house is not appropriate for its size, condition or layout. The living accommodation provided for the several tenants is inadequate for modern conditions even where there is a severe shortage of affordable housing. For these reasons I have come to the conclusion that the enforcement notice must be upheld subject to the correction and variation that I shall make. In reaching my decision I have taken account of everything brought to my attention at the hearing and in writing but I have found nothing that outweighs the main planning issues of these cases.

Formal Decision

24. I direct that enforcement notice be corrected by the deletion of paragraph 4 in its entirety and the substitution therefor of the words "without planning permission the change of use of a single residential dwelling house to two flats and accommodation comprising 3 bed-sit rooms on the first floor and one bed-sit in the attic space sharing kitchen and bathroom facilities"
25. I further direct that the enforcement notice be varied by the deletion from paragraph 5 (i) of the words "Stop using the property as flats and return it to a single residential dwelling" and the substitution therefor of the words "Stop using the property as flats and for multiple occupation and return it to a single residential dwelling".
26. I further direct that the enforcement notice be varied by the deletion from paragraph 5 of the words "3 months" and the substitution therefor of the words "6 months".
27. Subject thereto I dismiss the appeal, uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) for the retention of the flats and other living accommodation at 78 Retford Road, Harold Hill, Romford RM3 9ND.


INSPECTOR

APPEARANCES

FOR THE APPELLANT

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| Mr John Dagg, MRTPI | of Counsel, instructed by Blacklocks, Solicitors. |
| Mr Amir Laniado | Appellant. |
| Mr Ken Randall | Appellant's managing agent. |

FOR THE COUNCIL

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|----------------------------------|---|
| Mr Scott Davison, BA(Hons) MRTPI | Planning Assistant, London Borough of Havering. |
| Mr Steve Lomas | Planning Enforcement Officer, London Borough of Havering. |

INTERESTED PERSONS

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| Mr J Jee. | Representing his son, the owner of the adjoining, property, 76 Retford Road. |
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DOCUMENTS

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| Document | 1 | Attendance list. |
| Document | 2 | Notification of the hearing and the distribution list. |
| Document | 3 | Letters from Mr James Jee, 76 Retford Road. |
| Document | 4 | Letter from Mr & Mrs Sammut, 74 Retford Road. |

PHOTOGRAPHS

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| Photo A | Clip of photographs of the appeal property before conversion and of the area put in by Mr Davison. |
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