



Appeal Decision

Site visit made on 26 April 2022

by Mrs H M Higenbottam BA (Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 10 June 2022

Appeal Ref: APP/J0350/C/21/3279796

63 Beaumont Road, Slough SL2 1NG

- 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 Mohammed Alyas Khan against an enforcement notice issued by Slough Borough Council.
 - The enforcement notice was issued on 25 June 2021.
 - The breach of planning control as alleged in the notice is 'Without planning permission, the conversion of an outbuilding to form a self-contained dwelling and its use as an independent residential unit (Unauthorised Use) shown on the attached Plan edged in blue.'
 - The requirements of the notice are:
 - (i) Cease the Unauthorised Use.
 - (ii) Remove the kitchen and bathroom from the outbuilding.
 - (iii) Remove the internal walls incorporating the shower room and the bedroom.
 - (iv) Remove the pipework, boiler and connections associated with the kitchen and bathroom.
 - (v) Remove from the land all materials, rubbish, debris, plant and machinery resulting from compliance with the above requirements.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2) (d), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

Appeal on ground (d)

2. In appealing on ground (d) the burden of proof is firmly on the appellant to demonstrate on the balance of probabilities that the use was lawful through the passage of time when the enforcement notice was issued. This means that the alleged use had continued uninterrupted (apart from *de minimus* spells) for a period of four years before the notice was issued. The material date is therefore 25 June 2017.
3. The appellant states that the outbuilding has been as it is for over four years. That at the time of the appeal he had owned the property for almost 2 years and that there had been no building works carried out prior to the purchase. The building was in its current state and during conveyancing no issues were raised in regard to the outbuilding. He also states that at the time of purchase there was a sitting tenant, and he was unaware that this was not allowed. The tenant is stated to have paid council tax.

4. There is no substantiated evidence of when a tenant moved into the outbuilding and began living in the building as a self-contained dwelling. There is no evidence of who has lived in the building or the length of time each tenant has been in occupation or whether it is the same tenant who has lived in the building and over what period of time.
5. On the basis of the evidence submitted it has not been demonstrated on the balance of probabilities that the outbuilding has been occupied for at least 4 years continuously as a self contained dwelling. As such, the appeal on ground (d) fails.

Appeal on ground (f)

6. This ground of appeal is that the requirements of the notice are excessive and that lesser steps would overcome the objections. The appellant states that removal of all items inside the outbuilding is excessive and that removal of appliances would be sufficient to ensure it is not used as a habitable space. The Council consider the requirements are necessary to remedy the breach of planning control as a self-contained dwelling.
7. The requirements of the enforcement notice are to remove the kitchen and bathroom, internal walls incorporating the shower room and bedroom, the pipework, boiler and connections associated with the kitchen and bathroom from the outbuilding. It also requires all materials rubbish debris plant and machinery resulting from the removal of those items from the land.
8. There is no substantiated evidence that any of the items/elements required to be removed pre-existed the material change of use of the outbuilding to a self-contained dwelling. The items required for removal have, in my view and without evidence to the contrary, facilitated the material change of use to a self-contained dwelling. Therefore, I find that it is not excessive to require the removal of all the items/elements so that the land can be restored to the condition before the breach took place.
9. I therefore conclude that the requirements of the enforcement notice would not exceed what is necessary to remedy the breach of planning control that has occurred. The appeal on ground (f) fails.

Appeal on ground (g)

10. This ground of appeal is that the time given to comply with the notice is too short. The Council have given six months to comply with the requirements. The appellant states this period is too short as there is currently a tenant within the property who would need to be given notice and then sufficient time should be allowed for the tenant to find alternative accommodation. No specific alternative time period for compliance has been provided by the appellant.
11. In my view, on the evidence provided, a period of six months is a reasonable period to cease the use and physically comply with the requirements of the enforcement notice. I therefore conclude that the period for compliance specified in the enforcement notice is not too short. For the reasons given above the appeal under ground (g) fails.

Hilda Higenbottam

Inspector