



Appeal Decision

Site visit made on 30 July 2024

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 October 2024

Appeal Ref: APP/T5150/C/23/3314499

2 Burgess Avenue, London NW9 8TY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Petar Filipov Petrov against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice was issued on 9 December 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the outbuilding to the rear of the premises to residential use AND Without planning permission, the erection of a timber framed extension onto the rear extension of the premises.
 - The requirements of the notice are to:
 - 1 Cease the unauthorised use of the outbuilding to the rear of the premises as residential accommodation
 - 2 Permanently remove the bathroom and bathroom facilities, kitchen and kitchen facilities, and all internal partition walls located within the outbuilding to the rear of the premises, and remove all items and debris, arising from that removal, and remove all materials associated with the unauthorised use from the premises.
 - 3 Demolish the timber framed extension to the rear of the outbuilding, remove the canopies located above the doors located to the side and rear of the outbuilding, remove the air conditioning unit from the roof of the outbuilding, and remove all items and debris, arising from that removal, and remove all materials associated with the unauthorised use from the premises.
 - 4 Demolish the timber framed extension to the rear of the premises, and remove all debris and items, arising from the demolition of the unauthorised development, and remove all materials associated with the unauthorised development from the premises.
 - 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), (c), (f), (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - At Schedule 2 of the notice, after the words 'of the premises to' the insertion of 'a self-contained', so that it reads 'Without planning permission, the material change of use of the outbuilding to the rear of the premises to self-contained residential use AND Without planning permission, the erection of a timber framed extension onto the rear extension of the premises.'
 - At Schedule 4, STEP 1 of the notice, after the word 'as' the insertion of the words 'self-contained' so that it says 'Cease the unauthorised use of the outbuilding to the rear of the premises as self-contained residential accommodation'.

- At Schedule 5 of the notice, the deletion of '3 months' and the insertion of '5 months' so that it reads '5 months after this notice takes effect'.
2. Subject to the corrections and variation above, 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.

Matters concerning the notice

3. The enforcement notice alleges 'without planning permission, the material change of use of the outbuilding to the rear of the premises to residential use'. Step 1 of Schedule 4 of the notice requires the recipient to 'cease the unauthorised use of the outbuilding to the rear of the premises as residential accommodation'. Schedule 3 of the notice advises that, the reasons for issuing this notice are that the unauthorised change of use has resulted in providing the provision [sic] of a separate residential unit of accommodation which is not incidental to the enjoyment of the main dwellinghouse.
4. It is clear from the four corners of the notice that the Council's concern relates to the provision of a separate unit of residential accommodation and from the appellant's submissions, notwithstanding the appellant's argument under ground (b), it is clear they understand what they are alleged to have done. I consider it is necessary to correct the notice, in the interests of clarity, to refer to 'self-contained' in the allegation and requirement. Since this would not change the scope of the allegation, which is an unauthorised residential use, I consider such corrections would not cause either party injustice.

Grounds (b) and (c)

5. An appeal under ground (b) is made on the basis that the matters stated in the notice as constituting a breach of planning control have not occurred. The main thrust of the appellant's case under ground (b) is that the outbuilding is not used as a self-contained dwellinghouse but as ancillary accommodation to the main house. To succeed in this case, the appellant will need to show that the use of the outbuilding as self-contained residential use has not occurred, as a matter of fact.
6. The outbuilding is located to the rear of No 2 Burgess Avenue, an end terraced dwellinghouse with an alleyway on one side. The outbuilding is laid out with a kitchen, bathroom with toilet, shower and sink, living area and bedroom with a double bed. A gate separates the entrance to the outbuilding from the rear garden of the host property and a separate gate provides access to the outbuilding from the side alleyway.
7. Photographs of the outbuilding, taken by the Council on 27 October 2022, show that the kitchen of the outbuilding contained a microwave and a conventional oven with an electric hob. The photographs also show that the kitchen contained a variety of cooking utensils, pointing towards the kitchen being used for cooking at that time. White goods are also evident in the photograph along with other residential paraphernalia.
8. The appellant states that the kitchen only contains a microwave and that occupiers of the outbuilding are reliant on the main dwelling for meals and dining purposes. However, while I saw during my visit that there are no cooking facilities, there was a gap present where a cooker would have been. As

set out above, the photographs taken by the Council show that the outbuilding had all the facilities required for day-to-day living.

9. The photographs show items within the kitchen, such as garlic in a bowl near the sink, a colander on the draining board, and various kitchen utensils, which point towards the kitchen being used for cooking. Towels, toothbrushes and toiletries point towards the outbuilding being used for washing and a made bed points towards the outbuilding being used for sleeping.
10. If the occupants of the outbuilding had been reliant on the main dwelling, I would not expect to see such a well-equipped kitchen. Furthermore, the photographs provided by the Council point towards there being multiple occupants at that time, with three toothbrushes in the bathroom and multiple towels hung in the bathroom.
11. The Council states that, during its visit to the site in October 2022, an individual answered the door to the outbuilding and advised the investigating officer that they pay a monthly rent for the outbuilding and that it is occupied by 2 adults. Occupation by 2 adults would, in my view, be consistent with the photographs provided. While I have not been provided with a tenancy agreement for the outbuilding, the absence of such documentation is not itself evidence that the building has not been occupied independently from the house.
12. The appellant suggests the outbuilding has been occupied occasionally by their aunt and uncle, which would explain why the Council found the building to have been occupied by 2 adults. However, the appellant has not explained why the occupants of the outbuilding would have advised the Council they pay a monthly rent. I would not expect family members using an outbuilding occasionally, for just a week or two a year, to pay rent or refer to themselves as paying it if they were not.
13. The appellant also suggests the outbuilding provides accommodation for their mother-in-law. I have been provided with letters regarding their mother-in-law's medical history and from the Department for Work and Pensions. However, these are both addressed to 2 Burgess Avenue and do not show where within the appeal site their mother-in-law resided or over what period.
14. While the outbuilding has not been registered for Council Tax as a separate dwelling, this is not determinative of how it has been used, it simply shows that the appellant has not requested a Council Tax banding change. The lack of separate utility meters is also not determinative, since its use is not dependent upon there being a supply of electricity and water (for example) which is separately metered. What is important is how the outbuilding has been used.
15. Although the appeal building may not have had a cooker at the time the enforcement was issued, the appellant has not explained why one is evident in the photographs provided by the Council. Furthermore, the appellant does not provide any substantive evidence to show that the Council is incorrect in its account of the site visit on 27 October 2022. I find the photographic evidence provided by the Council particularly compelling. The appellant's evidence, by contrast, is ambiguous.
16. There is physical delineation between the main dwelling at No 2 and the outbuilding and, it appears there has been functional separation with the

outbuilding being used for a residential use by its occupants separately, rather than as part and parcel of the use of the main dwelling. Thus, I find on the balance of probabilities, that the self contained residential use of the outbuilding has occurred as a matter of fact and the appeal under ground (b) must fail.

17. I am mindful that I have drawn this conclusion after having corrected the notice. However, had I not corrected the notice, the appeal under ground (b) would still have failed because the appellant does not dispute that the outbuilding has been used for a residential use. My consideration as to whether the residential use required planning permission would then be a matter which should be addressed under ground (c).
18. Where an outbuilding is used for the provision of additional living space, it is not in incidental use. It will either be used for residential purposes that are integral to the residential use of the house, or there will have been a material change of use through subdivision of the planning unit and the creation of a separate dwelling.
19. Where an outbuilding has been used as part and parcel of (rather than incidental to) the use of the dwellinghouse, even if the outbuilding contains the facilities required for use as a self-contained dwellinghouse, there will have been no material change of use of the land and so the appeal under ground (c) would succeed in this regard.
20. However, as set out above, I have found that the outbuilding has been used as a self-contained residential use and so a material change of use has occurred. Since planning permission has not been granted for that material change of use, the appeal under ground (c) would therefore have failed and the outcome would have been the same whether I had corrected the notice or not.
21. An appeal under ground (c) is made on the basis that the matters alleged in the notice (if they occurred) do not constitute a breach of planning control. The main thrust of the appellant's case in respect of ground (c) is that the canopies located above the doors to the side and rear of the outbuilding, the air conditioning unit and the timber framed extension to the rear of the outbuilding do not require planning consent and they do not facilitate the use of the outbuilding.
22. An enforcement notice concerned with a material change of use, by virtue of section 173(4)(a) of the Act, may require the removal of works which would otherwise be immune, including the removal of those which might not constitute development, or which might have been permitted development if they had not been constructed to facilitate the alleged use¹.
23. The burden of proof in a legal ground of appeal is on the appellant, with the standard of proof 'the balance of probabilities'. However, the appellant has not shown when the air conditioning unit, timber framed extension to the rear of the outbuilding, or the canopies located above the doors of the outbuilding were erected or that they were erected for some other lawful use.
24. In my experience, air conditioning units are not commonly fitted to outbuildings which are used for incidental purposes and are more likely to be fitted to buildings which are used for habitable accommodation. The timber

¹ *Murfitt v SSE* [1980] JPL 598 and *Somak Travel Ltd v SSE* [1987] JPL 630.

framed extension appears to have been erected to enable occupants of the outbuilding to use the area to the rear of the outbuilding for sitting out. The canopies above the doors of the outbuilding are features which tend to be found on dwellings, to accentuate and enhance the main entrance/exit to a dwelling. They are not features which, in my experience, are typically found on outbuildings.

25. The appellant's evidence does not show, on the balance of probabilities, that the air conditioning unit, canopies and timber framed extension to the rear of the outbuilding were erected for some other lawful use. Consequently, the appeal under ground (c) must fail.

Ground (a)

26. An appeal under ground (a) is made on the basis that planning permission ought to be granted for the matters stated in the notice as constituting the breach of planning control.

Main Issues

27. The main issues of the appeal are:

- Whether the outbuilding provides satisfactory living conditions by virtue of its size, privacy, amenity space and personal bin and cycle storage;
- The effect of the residential use of the outbuilding on the character of the area;
- The effect of the residential use of the outbuilding on the living conditions of neighbouring occupants by virtue of noise and disturbance;
- The effect of the timber framed extension on the character and appearance of the area; and
- The effect of the timber framed extension on the living conditions of neighbouring occupants.

Reasons

Living conditions of the occupants of the outbuilding

28. Policy BH12 of the Brent Local Plan 2019-2041 (adopted 2022)(the BLP) states that planning permission will only be granted for outbuildings that will not be residential accommodation or do not support the increased occupation of a dwelling. The justification to the policy explains that the Council considers such development is unlikely to provide a satisfactory residential environment for its occupants. The Residential Extensions & Alterations SPD2 (2018)(the SPD) also advises that outbuildings should not include any forms of primary accommodation such as bedrooms, bathrooms/shower rooms, toilets or kitchens.
29. Policy D6 of the London Plan (2021)(the LP), states that housing development should be of high quality design and provide adequately sized rooms. Table 3.1 of the LP sets out the minimum gross internal floor area of 37sqm for a 1 bedroom, one person dwelling with one bedspace (where the dwelling has a shower room instead of a bathroom) and 50sqm for a 1 bedroom two person dwelling.

30. The outbuilding measures around 30 square metres (sqm) and comprises an open plan kitchen/living area, bedroom and shower room. The outbuilding contains a double bed and could be occupied by 2 people. Indeed, as set out above, the evidence provided by the Council points towards the outbuilding having been occupied by 2 adults.
31. The floor space provided by the outbuilding falls significantly short of the 50sqm required by the LP. These sizes are the minimum considered necessary to afford occupants an acceptable standard of living. The photographs taken by the Council show that, even though the outbuilding was particularly tidy, the need for furniture and other residential paraphernalia resulted in limited circulation space. As a result, the outbuilding is likely to have felt cramped, which is harmful to the living conditions of its occupants.
32. To the rear of the outbuilding is a patioed area. From the photographs provided by the Council, it appears that this area was covered using the timber framed extension, with its occupants using the space as internal living accommodation rather than outdoor amenity space. Nevertheless, the patio could be used by occupants of the outbuilding as external private amenity space and, since it would be possible to secure this by condition, I shall consider it as such.
33. Policy DMP 1 of the BLP seeks high levels of external amenity and policy BH13 of the BLP sets out that all new dwellings will be required to have external private amenity space, which in this case would be expected to be 20sqm. However, private outdoor space to the outbuilding is limited and falls below the 20sqm set out in policy BH13.
34. The appellant has provided no substantive evidence to show why a lesser amount of outdoor amenity space would be appropriate in this case. Furthermore, the outdoor amenity space is overlooked by flats to the rear of the outbuilding, which is likely to deter its occupants from utilising the space for relaxing and sitting out.
35. Policy D6 of the LP states that housing should be designed with adequate and easily accessible storage space that supports the separate collection of certain wastes. Although the patioed area to the rear could be used for the storage of bins and cycle storage, this is likely to be impractical due to the need to pass through the outbuilding.
36. Whether the outbuilding is occupied by one or two people, it is substantially below the minimum space standards within the London Plan. Furthermore, outside space falls below the 20sqm suggested in policy BH13, with limited space for personal bin and cycle storage.
37. Due to its modest size and the limited provision of useable outside space, the outbuilding fails to provide satisfactory living conditions for its occupants, contrary to policy D6 of the LP and policies DMP1, BH12 and BH13 of the BLP, the requirements of which are set out above. It is also contrary to the advice contained in the SPD and the expectations of the National Planning Policy Framework (December 2023)(the Framework) which seeks a high standard of amenity for existing and future users.
38. The appellant suggests that the outbuilding should not be assessed against policy D6 of the LP or BH13 of the BLP because it relates to 'ancillary accommodation' in association with the main dwellinghouse. While, as set out

above, I have found this not to be the case, I am mindful that were the enforcement notice to be upheld, once complied with, the appellant would be able to use the outbuilding for any purpose incidental to the enjoyment of the dwellinghouse.

39. While an incidental use would not cover normal residential uses, such as the use of primary living accommodation², were the outbuilding to be used as part and parcel of the residential use of the main dwelling, there would be no material change of use. I shall therefore consider whether it would be reasonable to include a condition restricting the use of the outbuilding so that it is part and parcel of the use of the main dwelling³.
40. The layout, position of the main entrance in relation to the gate in the alleyway and outside space to the rear, all appear to be designed to facilitate occupation which is independent of the main dwelling. Moreover, although the appellant has suggested their mother-in-law occupies the building, the access from the rear garden of Number 2 is of limited width and is unlikely to provide a suitable access for an individual with mobility issues, particularly if they require some form of walking aid or wheelchair, or assistance from a member of the family residing in the host dwelling.
41. As a consequence, despite its limited distance from the main dwelling, I consider the outbuilding is unlikely to actually be used in this way. I do not, therefore, consider it would be reasonable to limit access to the outbuilding from the alleyway or to impose a condition restricting the use of the outbuilding.

Character of the area: the outbuilding

42. The appeal site is located along Burgess Avenue, which is characterised by terraced properties with modest frontages, which front onto the highway. The appeal site comprises an end terrace, which is served by an alleyway which also serves the rear of properties fronting onto Church Lane. Access to the outbuilding can be gained through the rear garden of No 2 Burgess Avenue, via a gate or via a gate accessed from the alleyway.
43. The appellant has not explained how users of the outbuilding have accessed the outbuilding, however, it seems likely they would use the alleyway to avoid disturbing occupants of the main dwelling. Overtly residential features, including double glazed windows, a back door, canopies above both the back and front door and an air conditioning unit draw attention to its residential use, despite its modest scale and location to the rear of the host property.
44. While the enforcement notice does not require removal of the windows and rear door, it does require removal of the canopies and air conditioning unit. Moreover, the way in which the building is used contributes to its effect on the character of the area. The use of the outbuilding for residential use, which is separate to the host dwelling, appears at odds with the prevailing pattern of development along Burgess Avenue, contrary to policy DMP1 of the BLP, which seeks development of a location and layout that complements the locality.

Living conditions of neighbouring occupants: the outbuilding

² For example, a bedroom, bathroom or kitchen

³ The appellant refers to the now partly cancelled Circular 11/95 which, at Appendix A (which has been retained) suggests wording for conditions, including "Granny" Annexes.

45. The outbuilding is located towards the end of the rear garden of Number 2 Burgess Avenue. Windows and doors face away from the rear of the host building, with windows and doors on the rear elevation facing towards flats at Baron's Court. Access to the outbuilding is, for the reasons given above, likely to be via the existing alleyway, which serves a number of other buildings.
46. Occupants of the outbuilding are likely to generate noise and disturbance as a result of their comings and goings and their activities within the site. However, I consider this is unlikely to be to the extent that it would be harmful due to the orientation of the building and the location of the outside space to the rear.
47. The appeal site is located in a generally residential area, where residential use of outside spaces, including rear gardens, is a common feature. Although flats to the rear of the outbuilding, at Baron's Court, overlook the outbuilding and its outdoor amenity space, I see no reason why the noise and disturbance generated by occupants of the outbuilding would be harmful.
48. Indeed, in the event the enforcement notice is upheld, there is nothing to prevent the occupants of the main dwelling utilising the space to the rear of the outbuilding. As a result, I consider there would be no conflict with policy DMP1 (g) of the BLP, which seeks to ensure development does not unacceptably increase noise or general disturbance, amongst other things.

Character and appearance of the area: the timber framed extension

49. Number 2 Burgess Avenue is a terraced dwelling constructed using traditional materials and finished with painted render. To the rear is a single storey flat roofed extension constructed using bricks, which are painted a similar colour to the render. The appellant has erected a timber framed extension to the rear of No 2 Burgess Avenue, with plastic sheeting to the roof and side, which provides a dry area for the appellant and their family to enjoy the garden.
50. Policy D3 of the LP seeks development which is of high quality, including the use of attractive, robust materials and policy DMP1 of the BLP seeks materials, detailing and design that complements the locality. The Residential Extensions & Alterations SPD 2 (2018)(the SPD) also advises that rear extensions should be designed to respect the character and size of a house.
51. The materials used in construction of the timber structure, however, including corrugated plastic sheeting, appear makeshift and contrast with traditional building materials elsewhere in the area. The appellant suggests material sheeting which has been affixed to the extension, can be removed if necessary. However, this would not address my concerns regarding the materials used in construction of the extension itself.
52. The timber framed extension projects well above the boundary fence located between Number 2 and Number 4 Burgess Avenue. While there are no significant views from the public domain, due to its substantial height and projection from the rear of the main dwelling, the extension can be seen from the alleyway to the side of the property and from the neighbouring property, number 4 Burgess Avenue.
53. The use of poor quality materials which are uncharacteristic of the area is harmful to the character and appearance of the area, contrary to policy D3 of the LP, policy DMP1 of the BLP and the advice contained in the SPD, the

requirements of which are set out above and is contrary to the expectations of the Framework, which seeks well designed places.

Living conditions of neighbouring occupants: the timber framed extension

54. The extension projects a number of metres from the rear of an existing single storey rear extension, well beyond 3 metres in depth. The SPD advises that extensions up to 6 metres in depth may be acceptable providing that for every additional metre beyond 3 metres in depth, the extension should be set in from the boundary by an additional metre to protect neighbouring residential amenity.
55. However, while the extension is set back from the boundary with the alleyway, it abuts the fence between Nos 2 and 4 and projects well above the fence. It therefore fails to accord with the guidance contained in the SPD. Although Number 4 has a rear extension, its projection at the rear is far more limited compared with the appeal extension and so users of the rear garden at No 4 would clearly see the extension when using the garden.
56. While the corrugated plastic used in construction of the extension allows light through, due to its proximity to and projection above the boundary fence, it is likely to create a harmful sense of enclosure for users of the neighbouring garden. This is harmful to the living conditions of occupants of No 4, contrary to policy DMP1 of the BLP, which seeks high levels of external amenity and the advice referred to above in the SPD.

Other Matters

57. The Council has referred to policy D4 of the London Plan in its enforcement notice. While policy D4 refers to delivering good design, it sets out how this is to be done and how design quality should be maintained through to completion. I do not consider this policy to be determinative in this case.
58. The appellant has referred to the Royal Borough of Greenwich's Core Strategy (the RBGCS) in its statement of case. However, since the appeal site is in Brent, the RBGCS is not relevant to the appeal before me.
59. The Council has drawn my attention to a number of appeal decisions at Appendix 3 of its statement of case, which it suggests are similar to the circumstances of this appeal. Each of these decisions appears to have turned on its own facts. For the avoidance of doubt, I have considered the appeal on the evidence before me.
60. An interested party has raised concern regarding damage to a fence and a blocked drain. While I have considered the representations made, such matters of not relevant to my consideration of the appeal.

Ground (a) conclusion

61. For the reasons set out above, I find the outbuilding does not provide satisfactory living conditions for its occupants and its self-contained residential use harms the character of the area, contrary to policy D6 of the LP and policies DMP1, BH12 and BH13 of the BLP, the advice contained in the SPD, the requirements of which are set out above and the relative expectations of the Framework. While I have found the use of the outbuilding does not harm the

living conditions of neighbouring occupants, this is a neutral factor in my consideration of the appeal.

62. In respect of the timber framed extension to the rear of the main dwelling, I have found the extension harms the character and appearance of the area and harms the living conditions of neighbouring occupants, contrary to policy D3 of the LP and policies DMP1 and BD1 of the BLP and the advice set out in the SPD and the relevant expectations of the Framework.
63. Thus, for the reasons given above, I find the self-contained residential use of the outbuilding and the timber framed extension onto the rear extension of the main dwellinghouse conflict with the development plan as a whole and there are no material considerations which indicate that the decision should be taken otherwise in accordance with the development plan.

Ground (f)

64. An appeal under ground (f) is made on the basis 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.
65. Section 173(4) of the Act sets out the purposes of a notice are (a) remedying the breach by making any development comply with the terms... of any planning permission..., by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or (b) remedying any injury to amenity which has been caused by the breach. Given the requirements of the notice, it is clear that its purpose is to remedy the breach of planning control.
66. The appellant states that the requirements of the notice are excessive as only the provision of cooking facilities allows the building to be capable of being utilised for self-contained residential accommodation. The appellant suggests the removal of cooking facilities should be sufficient to overcome the harm caused by the alleged development. However, a notice directed at a material change of use may require the removal of works integral to and solely for the purpose of facilitating the unauthorised use, even if such works on their own might not constitute development, or be permitted development, or immune from enforcement⁴.
67. The appellant states that outbuilding originally served as a garage before being converted to habitable accommodation. The appellant has not shown that the bathroom, kitchen and internal partition walls were not installed to facilitate the unauthorised use. Garages of this scale don't tend to have internal partitions, nor do they tend to have bathrooms or kitchens. I therefore consider it likely these facilities were installed to facilitate the unlawful use.
68. As set out above, I consider the outbuilding is unlikely to be used for a residential use which is part and parcel of the use of the dwellinghouse. While the outbuilding could be used for any purpose incidental to the enjoyment of the dwellinghouse once the notice has been complied with, this would not include primary living accommodation.

⁴ *Murfitt v SSE* [1980] JPL 598 and *Somak Travel Ltd v SSE* [1987] JPL 630.

69. I accept that the enforcement procedure is intended to be remedial rather than punitive. However, were I to allow the bathroom, kitchen and internal partition walls to remain, it would be relatively easy to reintroduce some form of cooking facilities, enabling the building to be used once again as self-contained accommodation. Furthermore, only requiring removal of the cooking facilities would not remedy the breach. It is therefore not unreasonable or excessive to require removal of the bathroom and kitchen facilities and the internal partition walls.
70. The appellant suggests that the door canopies, timber extension to the rear of the outbuilding and the air-conditioning unit be retained as these elements do not require planning consent and could be reinstated without applying for planning permission. However, I see no reason why the appellant would choose to re-instate these features were the residential use required to cease. Allowing them to remain would not remedy the breach of planning control. It is therefore not unreasonable or excessive to require their removal.
71. Thus, the appeal under ground (f) fails.

Ground (g)

72. An appeal under ground (g) is made on the basis that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed. The appellant requests a period of 6 months to enable them to raise the necessary funds, find a suitable contractor and for the works to be carried out. The appellant suggests 6 months would also enable them to install additional facilities in the main dwelling for their mother-in-law.
73. At the time of my visit, although there were some personal effects present, the outbuilding did not appear to be occupied. The bed was unmade, and a running machine and various boxes were being stored in the living area, significantly limiting manoeuvrability within the outbuilding. Cooking facilities had also been removed. It therefore seems it is unlikely it is currently being used by the appellant's mother-in-law. Furthermore, it is not clear what facilities the appellant would need to install in the main dwelling, or how long these would take to install.
74. While appointing a contractor to carry out the works would cost money, the appellant has provided no substantive evidence to show that the cost would be so significant as to impact their ability to comply with the compliance period. Nevertheless, I recognise that organising works to be carried out can take some time and so, whilst it may be possible to carry out and complete the works within a relatively modest period of time, given the timing of my decision, this is likely to run over the winter, when the weather is more likely to be inclement and when public holidays may affect the availability of contractors.
75. The Council points out that it has powers under section 173A(1)(b) of the Act to extend the compliance period, the exercise of these powers is entirely for the Council's discretion. However, since the appellant has appealed under ground (g), I have a duty to reach a view on the evidence to what period for compliance is reasonable.
76. While I consider 6 months would be excessive, I consider a period of 5 months would be reasonable and proportionate and give the appellant sufficient time to

appoint a suitable contractor and for the works to be carried out. Thus, the appeal under ground (g) succeeds to that extent.

Conclusion

77. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall correct and vary the enforcement notice a prior to upholding it and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended). The appeal on ground (g) succeeds to that extent.

M Savage

INSPECTOR