



Appeal Decision

Site visit made on 10 December 2024

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2024

Appeal Ref: APP/J0350/C/23/3328908

126 Hazlemere Road, Slough SL2 5PW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mrs Tasleem Akhter against an enforcement notice issued by Slough Borough Council.
 - The notice was issued on 4 August 2023.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of an outbuilding to form a self-contained dwelling and facilitating works.
 - The requirements of the notice are: 1. Cease the use of the outbuilding as a self-contained dwelling; 2. Remove the kitchen and shower room from the outbuilding; 3. Remove the internal walls incorporating the shower room; 4. Remove all plumbing, boiler and associated pipework in connection to the kitchen and shower room within the outbuilding; 5. 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 four months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b) and (f) of the Town and Country Planning Act 1990 (as amended). Since the prescribed fee has not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act has lapsed.
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Decision

1. The appeal is allowed and the enforcement notice is quashed.

Ground (b) appeal

2. The ground of appeal is that the matter alleged in the enforcement notice has not in fact occurred. The onus is on the appellant to show why their appeal should succeed on this ground, the relevant test of the evidence being on the balance of probability.
3. The appeal property contains a two storey, semi-detached dwelling. A freestanding single storey outbuilding is situated towards the end of the rear garden. The notice attacks the use of the outbuilding as a self-contained dwelling.
4. The outbuilding interior is laid out as residential living accommodation. The main room contains a double bed and some other items of furniture, including a couple of lounge chairs and a built-in wardrobe, along with a small, fitted kitchenette. The kitchenette is equipped with cupboards, work surfaces and a sink and drainer. There are a number of household electrical appliances in the kitchenette including a washing machine, fridge/freezer, microwave, toaster and a kettle. A shower/WC is in a separate room.

5. According to the appellant, the outbuilding was erected in or around 2014 to provide incidental storage, with the kitchenette and shower/WC being installed during 2019. There is nothing before me to suggest that this information is inaccurate.
6. It is well-established that the distinctive characteristic of a dwelling house is the ability to afford to those who use it the facilities required for day-to-day private domestic existence. However, there is a notable absence in the outbuilding of the cooking facilities normally associated with a dwelling house use. Nor is there any obvious space in the outbuilding where normal day-to-day cooking appliances-an oven and a hob for example-could have been fitted. Appliances such as a microwave and toaster might be adequate for occasional use but are too small and basic for normal everyday cooking. There was a similar absence of everyday cooking facilities when the Council visited the outbuilding in November 2019 and July 2023.
7. It would not be unreasonable to expect a dwelling house to provide cooking facilities significantly in excess of those available in the outbuilding, in order to meet the day-to-day mealtime needs of most residential occupiers. Use of a structure as a self-contained dwelling cannot turn on the presence of a microwave or similar small household appliances, which could be removed and replaced with ease. Accordingly, as a matter of fact and degree, the outbuilding lacks one of the facilities which would enable its use as a dwelling house.
8. Furthermore, the limited facilities available for cooking food supports the appellant's claim that the outbuilding has been used to accommodate family members for short stays, as well as on a bed and breakfast basis on occasions. Short-term guest accommodation often lacks the cooking facilities normally found in a primary residence. With a restricted ability to cook food, it is entirely possible that a number of guests staying in the outbuilding have taken a substantial proportion of their meals in the appellant's dwelling, along with occasionally sharing other living activity in company with the appellant's family.
9. Given the circumstances set out above, following the approach endorsed by the Courts¹ the use of the outbuilding would, as a matter of fact and degree, be regarded as part and parcel of the main dwelling house use, with both buildings forming part of the same residential planning unit.
10. The absence of more detailed evidence, including a lack of any contemporaneous records which might relate to the occupation of the building, is perhaps unsurprising given the somewhat informal nature of the use described by the appellant. Although not in the form of sworn testimony, the appellant's account of events at the property is nevertheless sufficiently precise and unambiguous. There is no need for the appellant's account to be corroborated by independent evidence in order to be accepted, particularly as there is no firm evidence which casts doubt on or makes their version of events less than probable.
11. Therefore, the appellant has shown that, on the balance of probability, the use of the outbuilding as a self-contained dwelling has not in fact occurred. The ground (b) appeal succeeds.

¹ *Uttlesford DC SSE & White* [1992] JPL 171

12. It is not necessary to consider whether the notice should be corrected to describe any other breach which might have occurred. As the outbuilding and the dwelling are in the same residential planning unit and that unit remains in single family occupation, there has been no material change of use.
13. The Council is not prevented from serving a fresh enforcement notice in the event of a material change in the use of the outbuilding being drawn to its attention in future, if considered expedient to do so.

Conclusion

14. For the reasons given above, I conclude that the appeal should succeed on ground (b). The enforcement notice will be quashed. In these circumstances, the appeal on ground (f) does not fall to be considered.

Stephen Hawkins

INSPECTOR