



Appeal Decision

Site visit made on 29 April 2025

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 May 2025

Appeal Ref: APP/A5270/C/23/3319487

101 Greenland Crescent, Southall UB2 5ES

- 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 Sukwinder Basi against an enforcement notice issued by the London Borough of Ealing.
 - The enforcement notice was issued on 6 February 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission: The material change of use of the rear garden outbuilding to use as a separate dwellinghouse.
 - The requirements of the notice are to:
 1. Cease the use of the outbuilding as a separate dwellinghouse.
 - The period for compliance with the requirements is within three months from the date this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2) (d) and (g) of the Town and Country Planning Act 1990 as amended.
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Formal decision

1. It is directed that the enforcement notice be varied by extending the time period for compliance from three to six months from the date of this decision. Subject to this variation the appeal is dismissed and the enforcement notice is upheld.

Background

2. Following a complaint received by the Council as to the use of a number of outbuildings in the rear gardens of dwellings along Greenland Crescent, the owner (the current appellant) was contacted with a view to the official visiting the property. On 5 February 2019 he subsequently responded by e-mail indicating that he purchased the property in July 2011, with the outbuilding in situ. He said that it was used by him and his family as a games room, and as an additional kitchen due to the facilities installed within.
3. It is understood that an Enfield Borough Housing officer then visited the property on 27 February 2019 and the official, who noted the outbuilding's kitchen and bathroom installation, was told by the owner, Mr Basi that his family use it for their own personal leisure use. On this basis, as it was felt that it was capable of separate, independent occupation – it can be accessed via both side and rear gates off the adjacent alleyway – the case was referred to the Council tax team.
4. At a further visit from the Housing Officer on 27 December 2019 a washing machine and an up-ended mattress was witnessed. After further

investigations, described below, the Council saw it expedient to issue an enforcement notice in February 2023, requiring for the outbuilding's residential use to cease.

The Appeal on ground (d)

5. On this ground the Appellant must successfully demonstrate, on the balance of probability, that the breach of control alleged in the notice commenced 4 years before the date of the issue of the enforcement notice, ie prior to 6 February 2019 (hereinafter referred to as "*the material date*") and has continued since.
6. For the use to be lawful, the outbuilding needs to have been in continuous residential use for the four year period from the material date. The onus is on the appellant to provide compelling evidence in support of his case, and this requires for precise and unambiguous details to this end.
7. Sworn Statutory declarations (SD) have been produced from two persons; both the appellant, Sukwinder Basi, (the property's owner) and the tenant, Paresh Rajani. Mr Basi says that he purchased the property on July 2011. The outbuilding was already in place, and it had a built-in kitchen and shower room. He goes on to say that the outbuilding was subsequently rented out to Paresh Rajani who, having previously lodged in the main dwelling with the Basi family, has used the outbuilding as his primary residence since 5 January 2019, and does not use any part of the main dwelling for day-to-day living.
8. Mr Basi ends by stating:

'The outbuilding has therefore been occupied continuously as a separate dwelling since 2011'
9. Mr Rajani, in his SD, says that he moved into the outbuilding on 5 January 2019 and has lived there since. He confirms that he pays rent to Mr and Mrs Basi, who live in the main house. He also mentions that the outbuilding has its own kitchen and shower room, and says that he does not use any of the facilities in the main house.
10. The Council has provided chronological records of the investigations undertaken leading up to the issue of the enforcement notice through both its case report and also an e-mail trail. It is understood that the outbuilding was separately banded in November 2019 for Council tax purposes during the early part of the Council's investigations.
11. Details of a telephone conversation between an enforcement officer and Mr Basi on 19 May 2020, after the Council had served a Planning Contravention Notice (PCN) on him have been provided by the Council. Mr Basi had apparently said that the outbuilding was used by him and his family to cook and for people to drink beer as they do not do this in the main dwelling. Moreover, he told the official that no one has ever lived in the outbuilding, despite him applying to the Council for a selective licence for its habitable use. He had indicated that, despite the outbuilding not being rented, the application for the licence - which was subsequently issued in June 2020 - was made to get some peace of mind from the Council.
12. The enforcement officer's comments are actually confirmed by Mr Basi in his response, dated 26 May 2025, to the PCN where under section d) 'Use of outbuilding' he describes that it has a games room, a kitchen and a store, but

most importantly, he answers the question 'Is, or was the outbuilding at any time used for habitable purposes?', with a categoric 'No'. Mr Basi then signs the PCN under the typed wording 'I confirm that the information provided within this PCN response is true and accurate to the best of my knowledge.'

13. The licensing application, dated 5 January 2020, also throws into doubt the authenticity of the Assured Shorthold Tenancy Agreement between Mr and Mrs Basi and Mr Rajani which indicates a rental fee of £660.00 to be paid monthly for the occupation of the outbuilding. In this connection, whilst Council tax bills are provided, this was because the outbuilding had been separately banded, As such there are confused messages and, moreover, formal statements which contradict verbal accounts by Mr Basi as to the outbuilding's use.
14. In further illustration the Council had also received a complaint in March 2021 that the outbuilding was being separately rented and, a site visit was made on 13 April 2021. The enforcement officer met Mr Basi who told the official that the outbuilding was rented, but had only been so since the selective licence was granted in June 2020. In the above context, and given that no rent records or bank statements have been provided I attach little weight to the statement made by a local resident which comes across as a somewhat vague recollection and does not indicate particular dates as to occupation, save for an indication when the outbuilding was built, which could be cross referenced with the Council's investigation details.
15. In light of the above I have concluded that the evidence provided is conflicted and cannot be considered as precise nor unambiguous. Accordingly, the burden of proof has not been discharged to show that the outbuilding has been used as a separate dwelling continuously since the material date.
16. The appeal on ground (d) does not, therefore, succeed.

The Appeal on ground (g)

17. An appeal under ground (g) is where the appellant considers that the stipulated time period for compliance is unreasonably short.
18. In this particular instance the Council has set down the compliance period as three months. Although it has been said that the tenant, Mr Rajani has previously lodged with the Basi family in the main dwelling there is no indication that this arrangement would still be possible. That said, despite those representations made which attempt to demonstrate that the outbuilding has been used continuously for independent residential purposes for at least the four years prior to the enforcement notice's issue, due to the contradictory evidence provided it is only an assumption that it is, or has been, used as a separate dwelling.
19. Nonetheless, I am prepared to give the appellant the benefit of the doubt in this regard and, given the inconvenience that might occur, and in order that alternative accommodation might be secured, I am prepared to extend the period to six months from the date of this decision letter.
20. Accordingly, the appeal succeeds to this extent.

Timothy C King

INSPECTOR