Planning Inspectorate

Appeal Decisions

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 August 2025

Appeal A Ref: APP/R5510/C/23/3326872
Appeal B Ref: APP/R5510/C/23/3326873
980 Uxbridge Road, Hayes, Middlesex UB4 0RL

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the Act").
- The appeals are made by Mr Sunil Kanda (Appeal A) and Ms Shakuntla Rani Kanda (Appeal B) against an enforcement notice ("the notice") issued by the Council of the London Borough of Hillingdon.
- The notice was issued on 20 June 2023.
- The breach of planning control as alleged in the notice is: The material change of use [of] a single storey rear extension to the ground floor commercial premises to an independent residential accommodation.
- The requirements of the notice are:(i) Cease the unauthorised use of the single storey rear extension to the ground floor commercial premises as independent residential accommodation; (ii) Dismantle and remove from the single storey rear extension the "fitted kitchen" comprising the sink, washing machine, fridge, oven, work surface(s) and wall/floor cupboard units; (iii) Dismantle and remove from the single storey rear extension the "shower room" comprising the shower, shower cubicle, shower tray and associated plumbing, and the toilet pan and toilet cistern; (iv) Dismantle and remove from the single storey rear extension the internal studwork wall delineating the shower room from the kitchen/lounge/bedroom; and (v) Remove form the land all the debris, items, fixtures and fittings, building materials, plant and machinery resulting from the works listed in (ii), (iii) and (iv) above.
- The period for compliance with the requirements is: 3 months.
- The appeals are proceeding on the grounds set out in section 174(2)(d), (g) of the Act.

Decisions

1. Appeals A and B are allowed and the notice is quashed.

Application for costs

2. An application made by Mr Sunil Kanda and Ms Shakuntla Rani Kanda against the Council of the London Borough of Hillingdon is the subject of a separate Decision.

Preliminary Matter

3. The parties were advised that a site visit would not be undertaken.

Appeals A and B - the appeals on ground (d)

4. An appeal on this ground is that it was too late to take enforcement action on the date that the notice was issued. The onus is on an appellant to demonstrate this on the balance of probabilities.

5. Section 336 of the Act provides that any part of a building, in this case the single storey rear extension ("the extension"), is a building for the purposes of the Act. The extension affords the facilities required for day-to-day private domestic existence to those who use it and is therefore a single dwellinghouse for the purposes of this assessment.

6. On the date that the notice was issued, the relevant immunity period for a change of use of a building to use as a single dwellinghouse under section 171B(2) of the Act was 4 years. In these appeals, this means that enforcement action could not be taken against the change of use provided it occurred on or before 20 June 2019 and the use persisted for not less than 4 years without significant interruption.

7. One of the appellants has made a statutory declaration that the extension has been continually used as a dwellinghouse since October 2015. This is supported by evidence including tenancies for ‘980 Uxbridge Rd, Hayes UB4 0RL’ covering a continuous 5-year period (October 2015 to October 2020) and a continuous 3-year period (October 2020 to October 2023). Corroboration is provided by letters from the tenants and a neighbour.

8. Copies of documents confirming the tenants’ identities, employment status, salary and bank details have been provided. While these documents cannot demonstrate use of the extension as a single dwellinghouse, they do indicate the existence of landlord/tenant relationships.

9. The appellants also provide Council Tax bills for ‘Annex at 980 Uxbridge Road, Hayes, Middx UB4 0RL’ covering the period 1 October 2022 to 31 March 2024. The Council considers it significant that these bills, and Valuation Office records relating to the same address, do not pre-date October 2022, and so do not demonstrate 4 years’ use as a dwellinghouse before the notice was issued. The Council also refers to verbal statements made by an appellant that residential use began in 2022, but the appellants deny that was said.

10. If there were Council Tax and Valuation Office records from before October 2022, they would support the claim that the extension had been used as a single dwellinghouse for not less than 4 years. However, while their absence indicates what the relevant authorities knew, or rather did not know at the time, it cannot confirm whether that knowledge was correct.

11. The Council suggests the absence of electoral register data for the extension indicates a dwellinghouse did not exist. However, such data can only exist for residential properties that the electoral registration office knows about, so its absence cannot be conclusive. Furthermore, the tenants have been EU citizens and so may not have felt a need to initiate registration to vote in the UK.

12. The appellants’ evidence is sufficiently precise and unambiguous overall to demonstrate, on the balance of probabilities, that the material change of use occurred on 6 October 2015, more than 4 years before the notice was issued. It also demonstrates that the use continued thereafter without significant interruption. The Council has not presented evidence sufficient to make the appellants’ version of events less than probable.

Appeals A and B - Conclusions

13. For the reasons given above, I conclude that the appeals should succeed on ground (d). The enforcement notice will be quashed.

14. In these circumstances, the appeals on ground (g) do not fall to be considered.

Mark Harbottle

INSPECTOR