



Appeal Decision

Site visit made on 12 August 2025

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 August 2025

Appeal Ref: APP/A5270/C/23/3325563

12A Norman Avenue, Southall, Ealing UB1 2AU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Kulbir Singh against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The enforcement notice was issued on 30 May 2023.
 - The breach of planning control alleged in the notice is failure to comply with a condition of planning permission Ref 161637FUL granted on 5 August 2016.
 - The development to which the permission relates is part single storey side extension and retention of single storey detached outbuilding to be used as storage.
 - The condition in question is No 4 which states 'The outbuilding permitted shall only be used for domestic purposes incidental to the enjoyment of the dwelling and not for any separate residential use or for any industrial, commercial or business use.'
 - The notice alleges that the condition has not been complied with in that the outbuilding is used for non-incidental storage purposes by non-occupants of the property.
 - The requirements of the notice are: Cease the use of the outbuilding for non-incidental storage purposes by non-occupants of the property in breach of condition No 4 of planning permission reference 161637FUL granted on 5 August 2016.
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the grounds set out in section 174(2)(b) and (c) & (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.
-

Decision

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

Preliminary Matters

2. The expediency of taking enforcement action can only be considered by way of Judicial Review.
3. Planning merits considerations are not before me in this appeal. There is no deemed planning application following an appeal made on ground (a) and the relevant fee has not been paid.
4. An appeal has also been made in relation to another enforcement notice issued by the Council, alleging the construction at the appeal property of a single storey side extension for the purpose of a separate dwelling¹. That appeal is the subject of a separate Decision.

Ground (b) and (c) appeals

5. The ground (b) appeal is that the matters stated in the enforcement notice have not in fact occurred. The ground (c) appeal is that those matters (i.e., the matters stated in the notice) do not constitute a breach of planning control. The burden is

¹ Appeal Ref: APP/A5270/C/23/3325567

firmly on the appellant to show why their appeal should succeed on one or the other of these grounds, the relevant test of the evidence being on the balance of probability.

6. The property contains a two-storey, end of terrace residential building, with a self-contained flat on each floor. No 12A occupies the first floor. A freestanding single storey residential outbuilding is located at the rear.
7. Planning permission was granted in August 2016 for works to the property including erection of the outbuilding, for use as a store². The attached conditions include No 4, which restricts the use of the outbuilding to domestic purposes incidental to the enjoyment of the dwelling, also preventing its separate residential use or industrial, commercial or business use.
8. There can be little real doubt about which dwelling is referred to in condition No 4, when the above permission is read as a whole. As a matter of common sense, 'the dwelling' in the condition must be No 12A. The decision notice specifies the site address as No 12A. The condition clearly restricts use of the outbuilding to purposes incidental to the use of 'the' dwelling, i.e., the specific dwelling- No 12A, not 'a' dwelling or 'any' dwelling.
9. Condition No 4 satisfies the six tests set out in paragraph 57 of the National Planning Policy Framework. The condition is restrictive in nature; it does not positively require the outbuilding to be used for domestic storage incidental to the enjoyment of No 12A, simply that it cannot be used for purposes which are separate from and unrelated to that dwelling. The stated reason for imposing the condition refers to protecting the living conditions of occupiers in the locality. Any use of the outbuilding other than for domestic purposes incidental to the enjoyment of No 12A has the potential to adversely affect neighbouring occupiers' living conditions, including through increased levels of noise and disturbance. The purpose and effect of condition No 4 is thus little different from other planning conditions imposed to restrict the use of buildings or land to a specified activity.
10. The Council's evidence included a copy of a Planning Contravention Notice completed by the appellant and dated 25 May 2023. In that document, the appellant stated that they used the outbuilding for personal storage and no-one else had access to it. Other evidence supplied by the Council included photographs taken around the date the notice was issued, showing the outbuilding containing a number of items including various tools and hardware, along with a number of doors and windows, an unfitted oven and some gym equipment. The appellant's sole use of the outbuilding to store personal domestic items as a 'lock up' storage unit is confirmed in their sworn statement.
11. The use of the outbuilding by the appellant for storage is separate, physically as well as functionally, from the primary use of the property as a dwelling. The appellant does not reside at No 12A. It is well-established that an activity carried on in one planning unit cannot be incidental or ancillary to activity carried on in an entirely different and separate unit. Therefore, as a matter of fact and degree, use of the outbuilding for storage by the appellant cannot be incidental to the enjoyment of No 12A and is in breach of condition No 4.
12. It follows that, based on the available evidence and on the balance of probability, the matter stated in the notice has in fact occurred. The ground (b) appeal fails.
13. Turning to the ground (c) appeal. During my visit, I observed that there were various items including gym equipment, filing cabinets, books, shelving, household supplies and electrical products, in the outbuilding. Taken with the other evidence referred to above, this points to a continuation in the use of the outbuilding by the appellant for storage, in breach of condition No 4. The definition of a breach of

² Council Ref: 161637FUL

planning control in the Act at s171A(1) includes failing to comply with any condition or limitation subject to which planning permission has been granted.

14. Therefore, on the basis of the evidence before me and on the balance of probability, the matter stated in the notice constitutes a breach of planning control. The ground (c) appeal also fails.

Ground (f) appeal

15. The ground of appeal is that the steps required by the notice are excessive.
16. An enforcement notice can have the purpose of remedying the breach of planning control, by amongst other things making development comply with the terms, including conditions and limitations, of any planning permission which has been granted in respect of the land, and/or it can have the purpose of remedying any injury to amenity which has been caused by the breach.
17. It is clear on the face of the notice that its purpose is to remedy the breach. The requirement to cease the use of the outbuilding for non-incidental storage by persons not occupying No 12A would achieve that purpose, as it would secure compliance with condition No 4. If, on the other hand, the appellant continued to use the outbuilding for storage, that would sustain the breach of condition and so would not achieve the purpose of the notice.
18. Whether condition No 4 should be substituted with a different condition falls outside the scope of the ground (f) appeal, as it would involve planning merits considerations. The power in s176(1) of the Act does not extend to varying the notice where that would attack its substance. A notice which requires the breach to be remedied cannot be turned into something less by reliance on that section. The appellant did not suggest an alternative to the step required by the notice that would also remedy the breach and to my mind, there is none.
19. Therefore, the notice step is proportionate, being the minimum action necessary to remedy the breach. The ground (f) appeal also fails.

Conclusion

20. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Stephen Hawkins

INSPECTOR