



Appeal Decision

Site visit made on 21 October 2025

by **Mark Harbottle BSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 November 2025

Appeal Ref: APP/C3105/C/24/3339141

16 Almond Avenue, Kidlington OX5 1EN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (“the Act”).
 - The appeal is made by Mr Mohammed Quraishi against an enforcement notice (“the notice”) issued by Cherwell District Council.
 - The notice was issued on 25 January 2024.
 - The breach of planning control as alleged in the notice is, without planning permission, the change of use of the land from use as a single dwellinghouse to use as two dwellinghouses.
 - The requirements of the notice are to (1) Cease the use of the land as more than one dwellinghouse; (2) Remove from the new residential unit all washing, cooking and toilet facilities associated with residential use; (3) Remove the post box from the new residential unit; and (4) Restore the land to its condition before the breach took place.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (d) of the Act.
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Decision

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

Preliminary Matter

2. The appellant originally made separate appeals on grounds (b) and (d). The grounds are consolidated in this appeal and the other appeal¹ has been closed.

The appeal on ground (b)

3. An appeal on this ground may succeed if it can be demonstrated, on the balance of probabilities, that any matter stated in the notice has not occurred. The appellant contends that the alleged change of use has not occurred and that the land affected by the notice remains a single planning unit comprising a dwellinghouse.
4. There is an outbuilding, No. 16A, on the land and the appellant states it was originally a garage, confirming that, as built, it was incidental to No. 16 and part of the same planning unit. A double bedroom, a bathroom with a shower cubicle and an open plan kitchen/dining area with an electric hob had been installed in the outbuilding by the time he bought the property in 2007. A note made by the Council on visiting the site in January 2009 records that he had advised the outbuilding was then being used as “bedroom accommodation for overflow for the house.” It is not apparent whether the Council viewed the interior of the outbuilding, but it concluded that it was ancillary accommodation and not a separate dwelling.

¹ APP/C3105/C/24/3339075.

5. The appellant describes the outbuilding as an annex, with “independent accessibility” and I saw that it can be reached from the road without passing through the building at No. 16. The appellant also refers to shared facilities but does not state what they are. I saw that the outbuilding contains a bathroom with shower and WC and facilities for preparing and cooking meals and washing clothes. It can therefore provide an occupier with all the facilities required for day-to-day private domestic existence.
6. Six tenancy agreements dated between 15 August 2018, and 25 May 2025 have been provided. The facilities confirmed in the earliest 2 agreements are a washer dryer, a fridge freezer and a cooker, while the later 4 agreements confirm the provision of a kitchen, a bathroom and a washer dryer. The agreements do not confirm a right to use any external area, either exclusively or shared with No. 16.
7. The most recent agreements confirm that the tenants are liable for their own bills, except water, and the Council confirms that No. 16A is registered as a separate postal address and banded separately for Council Tax.
8. From these facts, it is apparent that the annex has all the facilities necessary for independent residential occupation. It is exclusively occupied by tenants who are separately responsible for Council Tax and most bills and who therefore have no need, or identified right, to use any facilities within No. 16. As a matter of fact and degree, the annex is a separate planning unit and the land affected by the notice now contains 2 dwellinghouses, as alleged. It has therefore not been demonstrated, on the balance of probabilities, that any matter stated in the notice has not occurred and the appeal on this ground must fail.

The appeal on ground (d)

9. The appeal on this ground will succeed if the change of use from use as a single dwellinghouse to use as two dwellinghouses was immune from enforcement action when the notice was issued. On that date, section 171B of the Act provided that no enforcement action could be taken if the change of use of the outbuilding to use as a single dwellinghouse had occurred not less than 4 years beforehand.
10. It is therefore for the appellant to demonstrate, on the balance of probabilities, that the change of use was made on or before 25 January 2020 (“the Relevant Date”) and that the new use continued thereafter without significant interruption.
11. As noted, the appellant states that the outbuilding contained a bedroom, a bathroom with a shower and a kitchen/dining area in 2007. He also states that it has been let since 2013, indicating that it was not let out, and most likely to have been used for purposes incidental to the occupation of No. 16 as a dwellinghouse, before that. That is consistent with the use as “bedroom accommodation for overflow for the house” he described to the Council in 2009.
12. As noted, the earlier tenancy agreements, dated between 15 August 2018 and 5 September 2019, listed “washer dryer, fridge and cooker” as fixtures and fittings in the outbuilding. There was then a major change, such that some 9 months later the rent had increased significantly, from £600 to £825 per month. The scale of the increase is even greater when it is borne in mind that the lower figure included all bills, while the higher included only Council Tax and water. The only possible explanation for the magnitude of this change in the evidence before me is in the fixtures and fittings listed from 17 May 2020 onward, confirming that the outbuilding

had been newly refurbished, with a newly fitted kitchen and bathroom. The appellant's statement that no holding deposit was solicited until June 2020, "primarily due to the absence of substantial fixtures or fittings" confirms this.

13. The changes that took place between 5 September 2019 and 17 May 2020 are also significant in terms of the increased separation of payments, with tenants assuming responsibility for electricity bills. Greater independence is evident after 1 April 2022, when liability for Council Tax was transferred to the tenant.
14. The evidence of whether the outbuilding contained all the facilities required for day-to-day private domestic existence before May 2020 is ambiguous. On one hand, the appellant states there was a bathroom with a shower and a kitchen/dining area in 2007, while on the other, he confirms an absence of substantial fixtures or fittings prior to May 2020. The change in the listed fixtures and fittings, the increase in rent and the shift in responsibility for bills to the tenants at that time all point to a major change in how the building was occupied.
15. From the evidence presented, I find that the agreement dated 17 May 2020 marks the most likely date on which the change of use of the outbuilding to use as a single dwellinghouse occurred. Accordingly, and on the balance of probabilities, it has not been demonstrated that the use began on or before the Relevant Date and the appeal on this ground must fail.

Conclusion

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

Mark Harbottle

INSPECTOR