



Appeal Decision

Site visit made on 15 December 2025

by Timothy C King BA(Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 December 2025

Appeal Ref: APP/M1595/C/24/3346359

45 Longhouse Road, Grays, RM16 4RT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mrs Rachel Padgett against an enforcement notice issued by Thurrock Borough Council.
- The enforcement notice was issued on 30 May 2024.
- The breach of planning control as alleged in the notice is failure to comply with condition 4 imposed on a planning permission ref 17/01064/FUL granted on 17 November 2017.
- The development to which the permission relates is: Without planning permission, the unauthorised use of the annexe at Longhouse Road as separate dwelling contrary to condition 4 of application 17/01064/FUL. An application (reference 22/00243/CV) pursuant to section 73 Town and Country Planning Act 19190 was submitted retrospectively for the removal of condition no.4 of planning permission and was refused. Appeal number APP/M1595/W/23/3315321 was lodged and dismissed. The breach remains..
- The condition in question is no 4 which states that the annexe hereby permitted shall be used for purposes ancillary to the main residential dwelling known as 45 Longhouse Road. The annexe shall remain within the same planning unit and shall not be subdivided physically with fences, walls or other means of enclosure. Under no circumstances shall any part of the development hereby permitted be used as a separate unit of residential accommodation separate from the planning unit at 45 Longhouse Road.
- The notice alleges that the condition's requirements have not been complied with.
- The requirements of the notice are to:
 - (a) Cease the use of the annexe outbuilding as a separate dwelling; and
 - (b) Commence and retain the use of the annexe outbuilding solely as an annexe, ancillary and incidental to the use of the main dwellinghouse known as 45 Longhouse Road, as set out in condition 4 of consent 17/01064/FUL.
- The period for compliance with the requirements is within six months of the date this Notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(b), (c) and (f) of the Town and Country Planning Act 1990 (as amended).

Decision

1. It is directed that the enforcement notice be corrected by deleting the first sentence of its point 3 (The breach of planning control alleged) and substituting it with the following wording:

‘Without planning permission, the unauthorised use of the annexe at Longhouse Road as a separate dwelling contrary to condition 4 of planning permission 17/01064/FUL’.
2. The remainder of point 3 remains as currently worded.
3. Subject to this correction the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

4. As referred to above, following planning permission being granted in 2017 for the change of use of a domestic garage to create a self-contained residential annexe, along with an extension thereto, permission was refused by the Council for the removal of a condition imposed which required that the annexe should only be used for purposes ancillary and incidental to the main dwelling, and shall not be used as a separate unit of residential accommodation. This decision was unsuccessfully appealed by a decision letter of 15 November 2023 (*APP/M1595/W/23/3315321*).
5. The occupier of the annexe, who is also the owner of the main dwelling (no 45), has produced a Witness Statement in support of the appeal, and says that she moved into the annexe in November 2020, whilst the main dwelling has been rented out since 2019. As such, given that the planning permission and its restrictions have been breached continuously, the Council saw it expedient to issue an enforcement notice in an attempt to remedy this breach of control.
6. Given the previous appeal, the fact that no appeal has now been lodged through ground (a), and no deemed planning application (DPA) thereby falls to be determined, it was not necessary for me to enter the site. Save for the appeal on ground (f) which is concerned with the extent of the compliance steps required by the enforcement notice, the issues in the current case are mainly on legal grounds as to the whether the continuation of the annexe being used as an independent residential unit is lawful.

The enforcement notice

7. The enforcement notice is poorly worded in parts. The alleged breach of planning control refers to the '*annexe at Longhouse Road*' rather than specifically 45 Longhouse Road, and also has the wording '*as separate dwelling contrary to condition 4 of application 17/01064/FUL*'. Clearly, this should, instead, refer to planning permission 17/01064/FUL.
8. Under the provisions of section 176(1) of the 1990 Act as amended it is open to me to correct any defect, error or misdescription in the enforcement notice or to vary its terms if I am satisfied that the correction or variation will not cause any injustice. It is considered that the Courts interpret the power to correct a notice very widely and that the powers in s176(1) can extend to making significant changes to the terms of the notice so as to put it on a proper footing.
9. In this particular instance the thrust of the alleged breach is clear. It is quite obvious that the site refers to no 45 – the plan attached to the enforcement notice confirms as such – and, moreover, the appellant's representations are concerned with the recent planning history at no 45. Accordingly, in this context, the breach relates to a condition imposed on a planning permission rather than the application submitted to this end. Given this, minor corrections to the enforcement notice will not cause injustice to the appellant, and I shall therefore, correct the notice to read as it was obviously meant to.

The appeal on ground (b)

10. An appeal under ground (b) means that the appellant is claiming that the breach, as alleged, has not occurred as a matter of fact. Here, the appellant says that the Council is alleging that the annexe is the main residential unit at the site. This is

not the case; the allegation, as worded, does not mention the annexe in any such way.

11. The previous Inspector, in the 2023 appeal letter says, in paragraph of his decision letter, that the annexe no longer depends on the main dwelling as it now has its own water, gas and electricity supply. In this connection the appellant says in her Witness Statement that, when Council Building Control officers visited the site to inspect the works being carried out to make the garage fit for habitable purposes, there was no indication that the annexe could not be self-contained, or that it could not have separate amenities. However, Building Control regulations relate to different legislation, and there is no crossover with planning law in this respect.
12. Further, the appellant's Statement is here at odds with the contents of the letter from Palmerslaw (Sols) dated 14 June 2024, submitted on behalf of the appellant in support of her appeal
13. An outbuilding will normally become a single dwellinghouse where it is self-contained with all the necessary living facilities and has resulted in the creation of a separate planning unit. Nonetheless, providing that there has not been any physical demarcation to allow for separate access points and individual curtilages – if there is then the requirements of condition 4 would be further contravened - I am satisfied that the two dwellings at no 45 remain part of the same planning unit.
14. However, from the judgement of *Uttlesford DC v SSE and Wright* [1992] it was held that the use of an outbuilding in the curtilage of an existing dwellinghouse for primary residential purposes – of which the former garage currently at appeal is a case in point – does not involve a material change of use where it is used in conjunction with the host dwelling. The difference here is that the self-contained residential unit, once a garage and now known as the annexe, is used independently and there will be no interaction between the two buildings' occupants as one might expect would be the case with a granny annexe where a family member might choose to afford themselves of the self-contained facilities should an outbuilding have been fitted out for such.
15. The appellant's representations indicate that, as she is the owner of the main dwelling, she can come and go as she sees fit. Further, it is claimed that she is still dependent on the main dwelling for receipt of post. However, my site visit observations from the footway directly outside the property showed that the close-boarded side gate has a sign referring to the annexe and also a doorbell. Moreover, there is also a postbox affixed to the adjacent brickwork. As regards whether, irrespective of the appellant's role as a landlord, she accesses the main dwelling at free will, this is unlikely given that the appellant says that the tenants are a single family and it is highly likely that they would normally expect a reasonable degree of privacy.
16. In the circumstances the evidence would all suggest that the annexe approved under planning permission 17/01064 has not been used for purposes ancillary to the main dwelling at no 45. Accordingly, the requirement by way of condition 4 thereto has been contravened, and was at the time the enforcement notice was issued. The contents of the appellant's Witness Statement says as such and the thrust of the notice's allegation is correct.
17. The appeal on ground (b) cannot, therefore, succeed.

The appeal on ground (c)

18. In appealing on ground (c) the appellant accepts that the allegation stated on the enforcement notice is correct but claims that it does not constitute a breach of planning control as no planning permission was, or is, required for the use to lawfully continue. This would mean that the development was satisfied by the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, the allegation did not actually amount to development under s55 of the Town and Country Planning Act 1990, as amended or, fundamentally, that it was already covered by an extant planning permission.
19. In the representations made on behalf of the appellant the agent says that their client, in her original successful planning application, made it clear that she intended to live in the annexe because of her disability. I have, though, not been provided with any previous correspondence to this end, and I also note that personal circumstances – if put forward by the applicant/owner at that time – were not reflected in planning permission 17/01064/FUL as it was not made personal to the applicant.
20. Clearly, given the terms and conditions of the said planning permission, the identified breach of planning control requires planning permission for its lawful continuation. Yet the appellant has previously applied to have condition 4 removed which, following the Council refusing planning permission for such, was unsuccessfully appealed in 2023. Presumably, in light of this, no appeal under ground (a) has now been lodged in response to the enforcement notice being issued. Accordingly, as no DPA can here be considered the matter of the client's disability is not, and cannot, be a consideration in the current ground (c) appeal.
21. The ground (c) appeal must therefore fail.

The appeal on ground (f)

22. An appeal under ground (f) is the appellant's consideration that the requirements of the enforcement notice go beyond what is reasonably necessary to remedy the identified breach of planning control.
23. It is clear that the enforcement notice has been issued in this instance to remedy the breach, and it merely requires that the use of the annexe be made ancillary and incidental to that of the main dwelling, with the cessation of its use as a separate unit of residential unit of occupation. I have already explained why the self-contained use of the annexe represents an independent use, separate to that of the main dwelling and, given the planning permission's condition 4 remains, only a planning permission can override this restriction.
24. As a ground (f) appeal does not, in itself, allow for planning permission to be granted in the above regard, this appeal must similarly fail.

Overall Conclusion

25. For the reasons given I have concluded that, given the recent planning history of no 45, none of the appeals lodged have merit, and cannot therefore succeed. In the circumstances I shall uphold the enforcement notice with corrections.

Timothy C King, INSPECTOR