



Appeal Decision

Site visit made on 6 January 2026

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2026

Appeal Ref: APP/J0350/C/24/3342099

13 Wiltshire Avenue, Slough SL2 1BB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr M Krackowski against an enforcement notice issued by Slough Borough Council.
 - The notice was issued on 5 March 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of an outbuilding on the land to form a self-contained dwelling with facilitating works (the 'unauthorised change of use').
 - The requirements of the notice are: 1. Cease the use of the outbuilding as a self-contained dwelling. 2. Remove the kitchen from the outbuilding. 3. Remove all plumbing and associated pipework in connection to the kitchen within the outbuilding. 4. Remove from the land all materials, rubbish, debris, plant and machinery resulting from compliance with the above requirements.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b) and (c) 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.
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Decision

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

Preliminary Matters

2. The building could not be accessed internally during my visit. However, I consider that the appeal can be determined from what I was able to view externally and on the basis of the information already available.
3. Planning merits considerations are not before me, as there is no ground (a) appeal and the relevant fee has not been paid. Nor are matters relating to the Council's investigation prior to the issuing of the enforcement notice relevant to my deliberations.

Ground (b) and (c) appeals

4. The ground (b) appeal is that the matters stated in the enforcement notice have not occurred as a matter of fact. The ground (c) appeal is that those matters (if they occurred) do not constitute a breach of planning control. The burden is firmly on the appellant to show why their appeal should succeed on ground (b), or failing that ground (c), the relevant test of the evidence being on the balance of probability.
5. The appeal concerns a freestanding single storey building located towards the far end of the rear garden of a ground floor flat. The notice alleges the use of the building as a self-contained dwelling. The building is accessed externally via a pedestrian passage at the side of the flat, through a neighbouring garden and a

pedestrian gate set into the boundary fence. Photographic evidence supplied shows that on 5 January 2024 inside the building was a living/sleeping area which accommodated furniture including a single bed, a desk, a chest of drawers and other items including a chair, a lamp and a TV/monitor screen. Along a short corridor was a kitchen area which included fitted kitchen cupboard units, work surfaces, a sink and drainer as well as everyday household electrical appliances including a small induction hob, a single oven, a fridge and a washing machine. A separate WC/shower room was between the kitchen and the living/sleeping area.

6. The available evidence thus shows that just before the notice was issued, the building had the ability to afford to those who use it the facilities required for day-to-day private domestic existence, this being the distinctive characteristic of a dwellinghouse according to well-established case law¹. It follows that, on the balance of probability, the use of the building as a self-contained dwelling has in fact occurred. The ground (b) appeal fails.
7. Turning to the ground (c) appeal. Planning permission was granted to convert the building into a residential annexe in May 2023². However, there is little firm evidence of the occupier of the building sharing their living activity in company with the occupiers of the flat, as would normally be the case in a residential annexe. Few details of the occupier were supplied. Besides, even if it had transpired that they were related to the appellant, they did not pay a 'commercial' rent and contributed to the cost of utilities, those factors do not necessarily mean that the flat and the building function as a single household. Nor is the absence of a separate Council Tax rating conclusive of the use of the building for planning purposes. On the other hand, the self-contained residential accommodation provided together with the separate access via a neighbouring property does not support the building being used as part and parcel of and integral to the use of the flat.
8. Accordingly, as a matter of fact and degree, based on the evidence before me and in the specific circumstances of this case, in my view the building is, more likely than not, in use as a self-contained dwelling separate to the flat. The creation of a separate residential planning unit has involved a material change of use. The definition of development in s55(1) of the 1990 Act includes the making of any material change in the use of any buildings or other land. The effect of s57(1) of the 1990 Act is that planning permission is required for the carrying out of any development of land. No planning permission authorising the material change of use of the building to a self-contained dwelling has been drawn to my attention. Use of the building as separate self-contained residential accommodation is also in breach of condition 3 of the above permission.
9. Moreover, the works undertaken to convert the building to residential accommodation deviate significantly from that shown on the approved drawings accompanying the above permission. The kitchen has been installed instead of a storage facility. In addition, in the front elevation there is a part glazed door with a glazed side light not a pair of French doors, whilst there are additional windows in one side elevation and in the rear elevation. This is in breach of condition 1 of the above permission which required the development to only be implemented in accordance with the approved drawings, as well as being in breach of condition 3 which also restricted installation of cooking facilities and condition 4 which

¹ *Gravesham BC v SSE & O'Brien* [1982] 47 P&CR 142; [1983] JPL 307

² Council Ref: P/04381/006

restricted installation of further windows in the side and rear elevations of the building. A breach of planning control is defined in s171A(1) of the 1990 Act as carrying out development without the required planning permission; or failing to comply with any condition or limitation subject to which planning permission has been granted.

10. Therefore, on the balance of probability the matters stated in the notice constitute a breach of planning control; the appellant has been unable to show otherwise. The ground (c) appeal also fails.

Conclusion

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

Stephen Hawkins

INSPECTOR