



Appeal Decisions

Site visit made on 17 November 2025

by **M Savage BSc (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 January 2026

Appeal A Ref: APP/Y1945/X/23/3317945

18 The Gateway, Watford, Hertfordshire WD18 7HW

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr. Vinod Mishra against the decision of Watford Borough Council.
- The application ref 23/00170/LDC, dated 27 February 2023, was refused by notice dated 2 March 2023.
- The application was made under section 192(1)(a) and 192(1)(b) of the Town and Country Planning Act 1990 (as amended).
- The use and development for which a certificate of lawful use or development is sought is described as '1. Change of use of partly converted garage into habitable room (please refer HMO application reference 22/00321/HMO 2. Convert the remaining (as shown in the drawing enclosed) to an en-suite room with brick/any other material with Windows.'

Appeal B Ref: APP/Y1945/W/23/3325381

18 The Gateway, Watford, Hertfordshire WD18 7HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Vinod Mishra against the decision of Watford Borough Council.
- The application Ref is 23/00275/FUL.
- The development proposed is described as '1. 8 room HMO (approved under reference 22/00321/HMO); 2. Garage into Habitable room (Planning application reference no. APP/Y1945/X/23/3317945 and 3. Conservatory roof to be insulated (Presently used as a sitting room) to be used as habitable room; All details as per Exhibit 1 (existing and proposed) plan enclosed.'

Appeal A: Decision

1. The appeal is dismissed.

Appeal B: Decision

2. The appeal is dismissed.

Appeal A

Reasons

3. An application under S192(1) of the Act¹ seeks to establish whether any proposed use of buildings or other land or operations proposed to be carried out in, on, over or under land would be lawful. S192(2) sets out that if on application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect.
4. The appellant submitted an application for a lawful development certificate for a proposed use or development and describes the application as for: change of use of partly converted garage into habitable room and convert the remaining to an en-

¹ Town and Country Planning Act 1990 (as amended)

suite room with brick/any other material with windows. The appellant is proposing physical works to the building to enable them to use the space as a bedroom with ensuite bathroom.

5. S191(2)(a) and (b) sets out that uses and operations are lawful at any time if: i) No enforcement action may be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and ii) They do not constitute a contravention of any enforcement notice then in force.
6. Section 171A(1) of the Act sets out that for the purposes of the Act, 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, constitutes a breach of planning control. Section 172(1) of the Act provides that a local planning authority may issue an enforcement notice where it appears to them that there has been a breach of planning control and that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.
7. Planning merits form no part of the assessment of an application for a lawful development certificate (LDC) which must be considered in the light of the facts and the law. In an application for a LDC, the onus is on the applicant to demonstrate on the balance of probabilities that the proposed development would be lawful. An appellant's evidence should not be rejected simply because it is not corroborated. If there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.
8. Planning permission was granted on 29 September 2003 for a redevelopment scheme comprising warehouse unit, health club, hotel, restaurant/bar, retail units, residential, public open space and associated car parking, reference 02/00714/FUL, subject to conditions.
9. The Council refused the application for two reasons: Firstly, because the proposed garage conversion does not constitute 'permitted development' under the provisions of Article 3, Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) as permitted development rights were removed under condition 53 of planning permission for the redevelopment of the Former Sun Printer Site; secondly, because condition 54 of the planning permission require the approved garages to be reserved for the parking of vehicles and prevented them from being converted to provide additional living accommodation or used for any other purpose.
10. While permitted development rights were withdrawn by condition 53, this simply means that where development is proposed, it is not granted by the relevant part of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)(the GPDO). It does not prevent the appellant from carrying out works which are not development for the purposes of the Act. Whether the works proposed, which would include changes to the frontage, would be development requires a fact and degree assessment, which the Council does not appear to have carried out.
11. Nevertheless, the Council has also raised concern regarding condition 54. Condition 54 of the permission states that 'The garages hereby permitted shall be

reserved for the parking of vehicles and shall not be converted to provide additional living accommodation or used for any other purpose.’ The reason given for the condition is ‘To ensure that adequate and satisfactory provision is made for the garaging and parking of vehicles clear of all carriageways in accordance with Policy T9 of the Watford District Local Plan 1993 and Policy T18 of the Watford District Plan 2000: Pre-inquiry Version.

12. If the proposed works would fail to comply with any condition or limitation subject to which planning permission has been granted, this would constitute a breach of planning control and so enforcement action could be taken (whether it would be expedient to take enforcement action would be a matter for the Council to determine). In that circumstance, the proposed works would not be lawful and the appeal would fail. I shall therefore consider whether the appeal should fail because of condition 54, before moving on to consider whether the proposed works would comprise development.
13. The appellant has provided me with a floor plan, which states that part of the integral garage has previously been converted by the previous owner. The appellant proposes to change the layout of the existing building, so that the remaining section of the garage would become a bedroom. This would fail to comply with condition 54 because it would involve works to provide additional living accommodation within the building within the approved garage, which are expressly prohibited by the condition.
14. The appellant suggests that the previous owner converted part of the internal garage. While a breach of a condition may become immune from enforcement action after a period of ten years², there is no evidence to show that the breach which has already occurred would be immune from enforcement action. Furthermore, even if the appellant were able to show that condition 54 has been breached for a period of ten years, in my view, converting the remaining section of the garage would constitute a further breach.
15. I have been provided with a report to the Development Management Section Head regarding 4 The Gateway, which considered the ‘conversion of the existing garage so it can be used for dual purposes: as a room or for garaging a car. Includes the replacement of the existing garage door with a white insulated garage door and glazed panels.’ However, that concerned an application for planning permission and so it is not relevant to my determination as to whether the proposed use/development would be lawful.
16. Works to provide additional living accommodation would be in breach of condition 54 and so the appeal must fail. There is therefore no need for me to go on to consider whether the proposed works would comprise development for the purposes of the Act.

Conclusion

17. For the reasons given above, I conclude that the Council’s refusal to grant a certificate of lawful use or development for change of use of partly converted garage into habitable room and convert the remaining to an en-suite room with brick/any other material with windows is well-founded and that the appeal should

² By virtue of Section 171B(3) of the Act.

fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

Appeal B

Background

18. The appellant describes the proposed development as:

- (1) 8 room HMO
- (2) Garage into Habitable room
- (3) Conservatory roof to be insulated (presently used as a sitting room) to be used as habitable room.

19. Although the appellant describes the proposed development as an '8 room HMO', from the submissions provided, it is clear that 7 bedrooms are proposed, with the remaining space intended to be used for communal facilities. A number of the bedrooms are substantial and have been shown to accommodate more than one individual³. It is clear from the submission that the appellant seeks to accommodate more than 6 individuals and that what is being proposed is therefore a *sui generis* (or large) House in Multiple Occupation (HMO). I shall therefore consider the appeal on that basis.

Main Issues

20. The main issues of the appeal are:

- The effect of the appeal scheme on the character and appearance of the area, having regard to the provision of refuse and recycling storage and cycle storage;
- The effect of the appeal scheme on highway safety, having regard to parking provision; and
- Whether the accommodation would provide satisfactory living conditions for future occupants, having regard to outlook from communal living accommodation.

Reasons

Character and appearance

21. The appeal site comprises a mid-terraced property, laid out over three floors. To the front of the property is a modest paved area, which, at the time of my visit was used for the parking of one vehicle and storage of refuse and other paraphernalia. From the evidence, it seems the property is already in use as a C4 HMO, which is use of a dwellinghouse by not more than six residents as a "house in multiple occupation"⁴.
22. Policy HO3.9 of the Watford Local Plan 2021-2038 (2022)(the WLP) states that proposals to sub-divide existing residential accommodation into large scale

³ As set out in the Officer Report, a total of 8 individuals were noted to be occupying the property by the enforcement officer in March 2023, including 2 people in Room 2 and 2 people in Room 4.

⁴ The Town and Country Planning (Use Classes) Order 1987 (as amended).

Houses in Multiple Occupation will be supported where appropriate amenity space and facilities for refuse and recycling storage are provided, amongst other things.

23. During my visit, I saw that bins along The Gateway are typically stored to the front of properties and comprise two or three modest sized receptacles. The bins used at the appeal property, which are typical of those used by a single household, appeared overflowing.
24. The bin requirements identified by the Council for the appeal scheme would be for a 1 x 1100 refuse bin, a 1 x 1100 recycling bin and a 1 x 23 litre food waste bin. The proposed plans show that two bins would be located to the front of the proposed windows to Room 7. However, the bins shown appear more typical of those provided to a single household, rather than a large HMO.
25. Failure to make adequate provision for refuse storage is likely to result in waste spilling out onto the frontage, as I saw during my visit, which is contrary to policy HO3.9 and harmful to the character and appearance of the area. Even if the appellant were to provide 1100 litre recycling bins, these would be substantial in size and more akin to a commercial premises, and would dominate the modest frontage, which would also be harmful to the character and appearance of the area.
26. Appendix D of the WLP sets out cycle parking standards for C4 Houses and Multiple Occupation of 1 space per 2 bedrooms for residents and 1 space per 20 units for visitors. The appellant states that there is no plan to have a cycle stand, however, occupants may wish to have bicycles and are likely to wish to store them to the front. The failure to provide cycle storage is contrary to the requirements of Appendix D of the WLP and is likely to result in cycles being stored in a haphazard way to the front of the building, which would also dominate the modest frontage and harm the character and appearance of the area.

Parking

27. Policy HO3.9 of the WLP sets out that large scale Houses in Multiple Occupation will be supported where the proposal is car-free or parking provision is provided on site, or in nearby off-street parking facilities. The Council states that the appeal site is not located in the Watford Controlled Parking Zone and so it is unlikely to be possible to secure car-free housing by condition in this case.
28. The application form states that 2 parking spaces will be lost. The appellant suggests, through this appeal, that the area to the front will be retained for parking and that as such, there will be no loss of parking spaces. However, the space to the front is limited and, from my observations of the site, is unlikely to be sufficient to accommodate 2 vehicles, bearing in mind the need for occupants to be able to open doors, get in and out of their vehicles and for occupants of the appeal building to be able to walk to the front door without impediment.
29. Furthermore, some of the space to the front is likely to be used by occupants for the storage of refuse and recycling bins, which may further limit the space available for parking. Although part of the garage has already been changed into a room, as set out above, it has not been demonstrated that this is lawful.
30. As set out above, the Council imposed condition 54 on the original planning permission for the appeal site to ensure that adequate and satisfactory provision is

made for the garaging and parking of vehicles clear of all carriageways. Cars parked on the street can impede visibility, impede movement and, as I saw during my visit, due to limited availability of on-street parking, may choose to park in ways which are harmful to highway safety (I saw a vehicle parked across part of the bell-mouth of a junction).

31. Occupants of the HMO may wish to have a vehicle and may seek to park it close to the property. During my visit I saw that demand for on street parking was significant. Although this is a snapshot in time, I consider this is likely to be typical, given that signage has been erected to deter individuals from parking in allocated spaces or on private land. Increasing the number of occupants using the property is likely to increase demand for on-street parking, in an area already seemingly experiencing significant demand which is likely to harm highway safety and is contrary to policy HO3.9 of the WLP, the requirements of which are set out above.

Living conditions

32. The accommodation would be located over three floors, with an ensuite bedroom, a kitchen/dining room and conservatory on the ground floor, four bedrooms and a bathroom on the first floor, and two bedrooms and a bathroom on the second floor. It is proposed to use the conservatory at the rear as a living area and to replace/insulate the roof to make it a 'habitable room'. I have limited details as to what the insulation would comprise, nevertheless, I share the Council's concerns regarding the effect of such works on users of the kitchen/dining area.
33. Policy HO3.6 of the WLP seeks to ensure that co-living and non-self-contained accommodation provides generous shared space and amenities for all occupants. However, during my visit I saw that the glazing allows light through to the kitchen. Replacing the glazed roof is likely to limit light into the kitchen, making the room feel enclosed, diminishing the outlook and harming the living conditions of its occupants. I find that the proposed development would not provide satisfactory living accommodation for future occupants, contrary to policy HO3.6, the requirements of which are set out above.
34. I note that it may be possible to adequately ventilate the kitchen and provide sufficient appliances and fire doors and that an HMO license may have been issued for the property, however, this does not remove the need to comply with the policies of the local plan.

Other Matters

35. The appellant suggests that the Council has approved garage conversions of a few properties in this development, including Number 4 The Gateway, which, it is stated, received planning permission on 27 February 2014, reference 14/00011/FULH. While I do not have full details of the 'conversions' referred to, I have been provided a copy of the officer report for Number 4. However, the report sets out that the garage would be useable as a dual purpose space, suitable both for the garaging of a car and as a playroom. That scheme is not, therefore, comparable to the appeal scheme before me. While I note that the Council confirms that Number 2 has secured planning permission to convert the garage door to an insulated wall and window, I do not have substantive details of the permission and cannot be sure it is comparable to the appeal scheme before me.

36. I note that the proposals do not involve alterations to a party wall, however, this is a neutral factor in my consideration of the appeal.

Conclusion

37. While the appeal scheme would contribute towards the need for housing, as set out above, I find that the accommodation would not meet the needs of future occupants, nor would it make satisfactory provision for refuse and recycling, cycles or parking. As a consequence, the adverse impacts of allowing the appeal would significantly and demonstrably outweigh the benefits. The appeal scheme conflicts with the development plan as a whole and there are no material considerations which indicate that the decision should be taken other than in accordance with the development plan. Thus, for the reasons set out above, the appeal should be dismissed.

M Savage

INSPECTOR