



Appeal Decision

by Zoë Franks, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 26 FEBRUARY 2026

Appeal Ref: APP/N5090/C/24/3341740

7 Courtleigh Gardens, LONDON, NW11 9JX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Avrumi Hager against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice was issued on 22 February 2024.
 - The breach of planning control as alleged in the notice is without planning permission the making of a material change of use of land to the rear of 7 Courtleigh Gardens to use as 2 dwellinghouses.
 - The requirements of the notice are to: 1 Cease the unauthorised use of the outbuilding as dwellinghouses. 2 Remove from the outbuilding fixtures which facilitate its unauthorised use by: i) Permanently removing all bathroom facilities from the outbuilding including all toilets, basins and showers. ii) Permanently removing all kitchen units, ovens, hobs, extractor units, sinks, work surfaces, kitchen style cupboards, hot and cold-water supply and foul waste drainage pipework, food preparation areas from the outbuilding. 3 Permanently remove all waste and constituent materials resulting from the work in (1) and (2) from the site.
 - 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), (f), (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

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

Ground (b)

2. An appeal under this ground is that the matters stated in the enforcement notice have not occurred.
3. The appellant argues that it is the use of the existing outbuilding, rather than the use of land that has changed. They say that the building was originally constructed and used ancillary to the dwellinghouse at No.7, and that the change occurred several years later when it was first used as two separate dwellinghouses.
4. The appeal site has been separated from the garden of No.7 by a solid fence, and has its own fenced side-access path from the footway on Courtleigh Gardens
5. The appellant has provided a photograph dated 4 November 2016 which is listed as 'Appendix 7 Outbuilding completed November 2016'. It is accompanied by an invoice from Eugen Builder to R Deblinger dated 6 November 2016 which lists 'Building work' and 'Doors and windows'.
6. The photograph is of the front elevation of the building and does not show the interior. It shows two upvc doors of a type and design normally associated with the front door of a dwellinghouse including with letter boxes, both adjoining a upvc window also of a type normally seen in a house rather than an outhouse. The appellant states that building was constructed as two separate parts. The

presence of the two doors and windows mean that it had the appearance of two separate residential units on construction.

7. In any event, the appellant must prove this legal ground of appeal on the balance of probabilities, and they have not provided sufficiently detailed evidence (i.e. sworn evidence or photographs) regarding its use between its completion in November 2016 and March 2019. The appellant states that it was “built for the sole purpose so that my family can use it for storage, gym (workout space), and play area”. However, he does not go on to definitively describe and explain how and when the building was actually used and by which family members. There is also no supporting evidence of this alleged use (i.e. photographs, evidence from other people).
8. The only evidence before me regarding the date on which the fence was erected to separate the appeal site from the rest of the garden of No.7 is an aerial image dated 8 April 2017. This clearly shows the fence immediately in front of the building separating it from the rest of the garden, and alongside the side access path. The fence in front the building is very high allowing no views into the adjoining garden and thus creating a completely separate site. This fencing arrangement, including with the solid boundary along the access path dividing it from the rest of the rear garden, is not consistent with a use of an outbuilding ancillary to the house at No.7, or to the details of use given as an ancillary gym and for storage of a freezer provided by the appellant.
9. I give little weight to the explanation regarding the fence provided in the appellant’s final comments: namely that the fence was erected to prevent children accessing the brook at the back of the property; and to prevent friends and family using the outbuilding to see into the main house. Any such use of the outbuilding would have been ancillary to the residential use of No.7 and privacy therefore not required. A fence to prevent access to the brook would simply need to go along the rear boundary, and not along the length of the garden to create a private access path to the outbuilding. This information was not provided by the appellant originally, and is not included in the sworn evidence, and I do not find it compelling on balance.
10. There is also no detailed information or corroborating evidence provided by the appellant regarding when the kitchen and bathroom facilities were fitted into the outhouse. The appellant has therefore not provided sufficiently precise and unambiguous evidence regarding the use of the outbuilding to show on balance that the change of use took place in 2019.
11. There has been a material change in the character of the use of the land which was previously part of the garden of No.7, on both the fenced off rear element which contains the building and on the area covered by the side access path. The appellant has not shown on balance an alternative use of the building other than the residential use. He has therefore not shown that there has been a change of use of building, and the relevant immunity period is 10 years.
12. The fencing of the appeal site, and creation and use of two separate dwellinghouses has created a new planning unit with a material change of use. The matters alleged in the notice have occurred as a matter of fact because there has been a material change of use of the land which is the subject of the notice.
13. The appeal on ground (b) does not succeed.

Ground (d)

14. This appeal is that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control constituted by the matters in the notice.
15. The time limit for enforcement action regarding a material change of use of land is 10 years. As the building was substantially completed in November 2016, and the enforcement notice was issued on 22 February 2024 the necessary time had not passed and the appeal on ground (d) does not succeed.

Ground (f)

16. The intention of the notice is to remedy the breach of planning control, i.e. the material change of use. However, the Council is not seeking to have the building removed but accepts that it could be used as an outbuilding ancillary to the residential use at No.7. As such, the steps required by the notice to be taken do not exceed what is necessary to remedy the breach of planning control.
17. The appellant states that each unit had a sink and toilet, and that one unit also contained a shower on construction. However, they have not shown on balance that the outbuilding was used in a different way prior to the residential use and have not therefore shown that any of the bathroom and kitchen facilities including water supply and drainage pipework had a pre-existing lawful use.
18. The appeal on this ground does not succeed.

Ground (g)

19. The appellant has sought an extension of time for the period of compliance: stated to be 9 months on the appeal form, and 8 months in the statement of case. However, no specific reasoning is provided for these requested periods, other than stating that the tenants will need to find new accommodation. Whilst this is undoubtably true it does not provide an adequate explanation for the extensions requestion.
20. Given the lack of detailed justification, the period of 6 months is proportionate and the appeal on this ground fails.

Zoë Franks

INSPECTOR