Planning Inspectorate

Appeal Decision

Site visit made on 14 February 2026

by A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr

an Inspector appointed by the Secretary of State

Decision date: 2nd March 2026

Appeal Ref: APP/F5540/C/24/3343041
100 Whitton Road, Hounslow, TW3 2ES

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the "1990 Act").
- The appeal is made by Mr Mahesh Patel against an enforcement notice issued by the Council of the London Borough of Hounslow.
- The enforcement notice was issued on 22 March 2024.
- The breach of planning control as alleged is the conversion of a house into 5 self-contained flats and unauthorised use of an outbuilding as a separate self-contained unit.
- The requirements of the enforcement notice are to 1) Cease the use of the property as 5 self-contained residential flats 2) Remove all but one of the kitchen and kitchen associated facilities (including cooker, extractor fan, worktop, kitchen sink, benchtop and cabinets etc. In addition to the above items all water and gas supply piping and all waste connections 3) Remove all but one of the bathroom and bathroom associated facilities (i.e. Shower/ bathing facilities, WC, wash basin and pedestal. In addition to the above items all water piping and all waste connections) 4) Cease the use of the Outbuilding as a self-contained residential unit 5) Remove the kitchen and kitchen associated facilities (including cooker, extractor fan, worktop, kitchen sink, benchtop and cabinets etc. In addition to the above items all water and gas supply piping and all waste connections) 6) Remove the bathroom and bathroom associated facilities (i.e. Shower/ bathing facilities, WC, wash basin and pedestal. In addition to the above items all water piping and all waste connections) and 7) Remove all resultant debris from the land.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (b), (c) and (d) of the 1990 Act. Since the prescribed fees have 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 as amended have lapsed.

Decision

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

Ground (b)

2. The onus of proof is firmly on the appellant to show that some or all the alleged matters had not in fact occurred by the time the notice was issued, on the balance of probabilities. Essentially, the challenge is a simple one, namely, no. 100 has not been converted into 5 self-contained flats because the internal work facilitated a house in multiple occupation (abbreviated as 'HMO'). The Council was aware of the small HMO use as far back as 2011 and a letter dated 18 February 2011 seems to confirm that change was permitted.

3. On the other hand, the Council claims that during the period leading up to the issuing of the notice, the property had been converted into 5 self-contained flats. Each flat had its own lockable door and contained, amongst other things, a small washroom with basin, shower and WC, a kitchen with cooking equipment, worktops, sink, and domestic goods. Flat 4 has a separate kitchen.

4. What constitutes a dwellinghouse is found in case law[1]. It is reasonable to examine whether a building equipped as described above could be defined as an HMO for planning control. The Town and Country Planning (Use Classes) Order 1987 as amended[2] ('the UCO') defines an HMO for the purposes of Class C4 as not including a converted block of flats to which s257 of the Housing Act 2004[3] applies but otherwise having the same meaning as in s 254 of the same Act. Thus, a building converted into self-contained flats is expressly excluded from the UCO definition of an HMO. It is apparent from s 254 that a building is not a HMO for Class C4 purposes if certain exceptions[4] apply, which are not relevant in this case. In addition, an HMO would not exist where at least two households in occupation did not share, or the living accommodation was lacking in, one or more basic amenity. The latter is defined in subsection 254(8) as a toilet, personal washing or cooking facilities.

5. The Council's investigation included a site visit on 19 May 2023. I find the photographs particularly instructive of the layout and configuration at that time. Whilst the property may have been used as a small HMO in the past, the evidence presented seems to confirm to me that the house had been physically subdivided into 5 self-contained flats albeit flat 4 has access to a separate kitchen accessed off the landing. The flats contain appliances such as electric ovens and hobs, storage units and worktops. In practice, occupants of each flat have access to independent cooking, washing and sleeping facilities sufficient to render each flat a self-contained unit of accommodation. The same is true of the outbuilding, which is physically separate and contains necessary facilities for day-to day-living.

6. The appellant's evidence does not make less than credible the Council's version of events about the use of the property as flats. Apart from generalised statements, there is nothing showing where the shared basic amenities existed in the property, the nature and scale of their use by residents, before the notice was issued. On the contrary, the quantum of the evidence presented confirms to my mind that the configuration and layout of the building reflect 5 self-contained flats and a separate dwelling in the outbuilding.

7. The appellant states that the internal works took place from December 2019 to February 2020 pursuant to local housing officer's requirements for the re-issue of the HMO licence, which was granted on 9 June 2022 for a maximum of 5 households comprising no more than 10 people[5]. However, the appellant's own layout plans are inconsistent: the ground, first and second floor plans show bedrooms with ensuite facilities and shared kitchen and bathrooms, which is significantly different to the layout at the date of the notice's issue.

8. It is also worth keeping in mind that the planning regime regulates land use. It is separate to HMO regulatory systems and there is nothing to suggest the same planning considerations, as I have outlined above, apply when determining whether an HMO license should be granted.

[1] *Gravesham BC v SSE & O'Brien* [1982] 47 P&CR 142.
[2] The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 No. 757
[3] As amended by the Housing Act 2016.
[4] In summary, these exceptions are the following: it is occupied by persons forming part of a single household, or it is occupied by persons in a manner other than as their main residence, or occupation of the living accommodation by those persons is not the only use of that accommodation or no rent or other consideration is provided.
[5] Council ref FL/131556 dated 9 June 2022.

9. Pulling all the above threads together, the overall weight of evidence points in the probability that the property had been converted and subsequently used as 5 self-contained flats in the main building and a separate self-contained unit in the outbuilding by the time the notice was issued. Each constitutes a separate planning unit given functional and physical separation. It follows that the matters alleged in the notice factually occurred. I conclude that the appeal on ground (b) must fail.

Ground (c)

10. The evidence needs to show that the alleged matters do not constitute a breach of planning controls. In this context, a positive case has not been advanced in relation to the alleged matters. Instead, the appellant refers to the merits of the development.

11. Any submission that no. 100 has not been converted into an HMO, and the outbuilding does not form a separate unit of accommodation, is unsustainable. While a change of use of a single dwellinghouse to a small HMO is permitted development by virtue of Class L, Part 3 of Schedule 2 to the GPDO[6] and vice versa, the law does not authorise conversion of a single dwellinghouse into self-contained flats. To facilitate such a change of use, it is necessary to subdivide the original single dwellinghouse into separate dwelling houses. On the facts and circumstances, self-contained residential planning units out of a single dwellinghouse have been created. The character of this type of use is significantly different to the lawful use of the property and is likely to have on and off-site planning consequences requiring a merits assessment.

12. Moreover, the change of use targeted flies in the face of s55(3) of the Act. It states that use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part of it which is so used. That means express planning permission is necessary for the subdivision of the property by operation of law, exemption from which is not PD. Ground (c) fails.

Ground (d)

13. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided the appellant's evidence alone is, on the balance of probability, sufficiently precise and unambiguous.

14. The appellant maintains that the building operations involved in the conversion of no. 100 into 5 flats were substantially complete by February 2000, which is before the relevant date – 24 March 2020. As I have already said elsewhere, at the date of issue the building's layout was materially different to any previous HMO arrangement as it had in fact been converted into 5 self-contained flats.

15. To succeed on this ground of challenge, the evidence must clearly demonstrate two key points. First, it must show when the property was physically converted into self-contained flats as claimed and, second, it must establish that each unit was occupied and used as a dwellinghouse for a continuous period of at least four years, without any significant interruptions in residential use.

[6] The Town and Country (General Permitted Development) (England) Order 2015 as amended.

16. Apart from vague assertions, the evidence presented does not sufficiently show when the property had changed from small HMO to 5 self-contained flats, and when the outbuilding was first converted. This is because the information is incomplete and does not divulge when, how and by whom the physical work involved in the conversion of a large dwelling and outbuilding began and were substantially completed. For example, there is no specific detail about the nature, scale or sequence of the events, or when material required for the work was purchased or when white goods were acquired and installed.

17. The evidence does not show when the use of the building as 5 self-contained flats commenced nor does it clearly show when the outbuilding was first used as someone's home. The evidence presented does not include documentary evidence showing how or when each flat, and outbuilding, has been used for primary residential purposes. Nor does it show each unit has been in continued residential use without significant interruption. The Council tax bill for the outbuilding relates to 2022-2023, but clear and precise documentary evidence of utility usage has not been presented. The lack of detailed evidence makes comparisons between the nature and scale of residential use difficult to make. Given the absence of detailed and clear evidence, I cannot be sure each flat provided viable facilities for day-to-day domestic existence on or before the relevant date, and there is nothing to demonstrate use of the outbuilding as a self-contained unit of accommodation.

18. Drawing all the above threads together, I find that the available evidence does not sufficiently, precisely and unambiguously show, on the balance of probabilities, the alleged material change in the use of no. 100 to 5 flats, and change of use of the outbuilding to residential, occurred on or before the relevant date, and that use continued thereafter for a period of four years without significant interruption.

19. I conclude that the onus has not been adequately discharged and so this ground (d) appeal must fail.

Overall conclusions

20. For all the above reasons and having considered all other matters raised, I conclude that the appeal against the enforcement notice should fail.

A U Ghafoor

INSPECTOR