
Appeal Decisions

Site Visit made on 6 January 2026

by **J Whitfield BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11th March 2026

Appeal A Ref: APP/X5210/C/24/3350177

Appeal B Ref: APP/X5210/C/24/3350178

Land at Ground Floor Flat, 255 Goldhurst Terrace, Ground Floor Flat, London NW6 3EP

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The appeals are made by Mr G Sewell (Appeal A) and Ms S C Lanham (Appeal B) against an enforcement notice issued by the Council of the London Borough of Camden (the LPA).
 - The notice was issued on 4 July 2024.
 - The breach of planning control as alleged in the notice is, without planning permission, the change of use of an ancillary outbuilding to temporary sleeping accommodation.
 - The requirements of the notice are to: permanently cease the use of the ancillary outbuilding for temporary sleeping accommodation.
 - The period for compliance with the requirement is: 1 month.
 - The appeals are proceeding on the grounds set out in section 174(2)(b), (c) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decisions

1. It is directed that the enforcement notice is corrected by the insertion of the word “material” between the words “the” and “change” in section 3 of the enforcement notice. Subject to the correction, the appeals are dismissed and the enforcement notice is upheld.

Appeals on grounds (b) and (c)

2. An appeal on ground (b) is brought on the basis that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, that those matters have not occurred. An appeal on ground (c) is brought on the basis that those matters which may be constituted by the matters stated in the notice (if they occurred) do not constitute a breach of planning control.
3. A breach of planning control is defined in S171A(1) of the Act as (a) carrying out development without planning permission or; (b) failing to comply with any condition or limitation subject to which planning permission has been granted. Development is defined in S55(1) of the Act as including a material change of use in land or buildings. The concept of a material change of use is not defined in statute or statutory instrument. The established approach is that, for a material change of use to have occurred, there must be a significant difference in the character of the activities from what has gone on previously as a matter of fact and degree.
4. The appeals property comprises a ground floor flat. It contains an outbuilding in its rear garden. The outbuilding was built pursuant to a planning permission granted

in September 2011 for, “the erection of single-storey timber outbuilding in rear garden ancillary to ground floor flat (Class C3) (Retrospective).”

5. The notice alleges the change of use of the outbuilding to use as temporary sleeping accommodation. The appellants accept that there has been some use of the building as such. To that end, the breach of planning control alleged in the notice has occurred as a matter of fact. The dispute therefore lies in whether or not that use amounted to a material change of use and therefore a breach of planning control.
6. S25(1) of the Greater London Council (General Powers) Act 1973 (the GLCGPA) sets out that the use as temporary sleeping accommodation of any residential premises in Greater London involves a material change of use of the premises and each part of the premises so used.
7. ‘Use as Temporary Sleeping Accommodation’ is defined in S25(2)(a) (as amended by the Greater London Council (General Powers) Act 1983) as, “*use as sleeping accommodation which is occupied by the same person for less than 90 consecutive nights and which is provided with or without other services for a consideration arising (i) by way of trade for money or money’s worth; or (ii) by reason of the employment of the occupant, whether or not the relationship of landlord and tenant is thereby created.*”
8. Section 25A(1) of the GLCGPA (as inserted by the Deregulation Act 2015) states that, despite the wording of S25(1), the use as temporary sleeping accommodation of any residential premises in Greater London does not involve a material change of use if two conditions are met. They are set out in S25A(2) and S25A(3). The first is that the sum of: (a) the number of nights of use as temporary sleeping accommodation; and, (b) the number of nights of each previous use of the premises as temporary sleeping accommodation in the same calendar year, does not exceed 90. The second is that, in respect of each night which falls to be counted under S25A(2)(a): (a) the person who provided the sleeping accommodation for the night was liable to pay council tax in respect of the premises, or (b) where more than one person providing the sleeping accommodation for the night, at least one of those persons was liable to pay council tax in respect of the premises.
9. The appellants accept that, on occasions, the outbuilding has been used as sleeping accommodation on a paid basis for periods of less than 22 nights. Indeed, it is said that the appellants have not let the outbuilding as temporary accommodation for a period exceeding 90 nights in the calendar year of 2024 when the notice was issued. It is also said the appellants are liable for council tax at the property and, therefore, the exemption in S25A of the GLCGPA is met and the alleged use does not constitute a material change of use.
10. There appears to be no dispute that the appellants are liable for council tax at the property. However, beyond the simple statement that the outbuilding has not been let for temporary sleeping accommodation in excess of 90 nights, the appellants have provided little supporting evidence which demonstrates that is the case. The appellants’ submissions are not supported by any booking records, invoices, letting agreements or other documentation which would demonstrate the extent of the occupation.

11. In contrast, the LPA submits that between October 2023 and December 2024, there were 58 reviews of the outbuilding from persons who have stayed there on the short-term lettings website AirBnB. The number of nights of each stay is not provided but it is unlikely that every single stay was for a single night. Indeed, the LPA points out that there are minimum booking periods of either two or three nights depending on the date. Even if that weren't the case, the reviews point towards stays amounting to a considerable proportion of the 90 night limit, taking into account the LPA's point that not every person who stays in the outbuilding on a paying basis would necessarily have left a review. Ultimately, in the absence of supporting evidence on this point from the appellants, I am not able to conclude with any degree of probability whether or not the 90-night limit has been exceeded.
12. The onus of proof rests with the appellants and I am not satisfied that the evidence here is sufficiently precise and unambiguous to demonstrate, on the balance of probabilities, that the outbuilding was used as temporary sleeping accommodation for a period not exceeding 90 nights. As a result, the tests of S25A of the GLGPA are not met.
13. Since the exemption in the GLGPA does not apply, it is necessary therefore to consider whether there has been a material change in the character of the use as a matter of fact and degree.
14. The lawful use of the outbuilding is ancillary accommodation to the primary use of the ground floor flat of No 255 as a dwelling. Prior to the alleged breach taking place, the flat, along with its garden and the outbuilding comprised a single planning unit.
15. I was able to see from my site visit that the outbuilding contained an open plan living area with a kitchen containing a sink, two plate hob and a portable fridge. There was a separate shower room with a shower, toilet and sink. In the roof space was a small mezzanine area with a bed and a ladder for access. As a result, it contained all the necessary facilities for residential occupation independent of the main house. I have no reason to believe that was not the case at date the breach is said to have taken place.
16. Furthermore, whilst there is no physical separation or delineation within the garden between the outbuilding and the flat, there is a gate into the rear garden from the side alleyway which means the outbuilding can be accessed independently from the flat. Moreover, reviews produced by the LPA from AirBnB indicate that the outbuilding has been accessed via self check-in and check-out with the key obtained from a lock box, thus resulting in no contact necessary between persons occupying the outbuilding and those in the main flat. The excerpts from the AirBnB reviews provided also paint a picture of a place suitable for a small family and one which provides all the facilities needed for independent occupation. As a result, the provision of guest accommodation in the outbuilding is not functionally dependent on the primary use of the main flat. The appellants state that the letting of the outbuilding as sleeping accommodation would not occur without the existence of the dwellinghouse. However, given the functionally and physically separation, that it not necessarily the case.
17. Such occupancy as temporary sleeping accommodation appears to have occurred for a considerable period of time given the number of reviews left by persons having stayed there. Despite the fact it may not have been occupied consistently

throughout the period of being advertised, it appears nevertheless to have been available to book throughout that time. The appellants do not provide evidence to the contrary. The reviews appear to indicate that those persons occupying the outbuilding for paid accommodation have done so independently of the main flat. The evidence points towards it being unlikely and indeed unnecessary that paid occupants of the outbuilding would enter the premises to either dine, relax or partake in other domestic activities with the occupants of the flat.

18. The nature of the short-term accommodation use which has appeared to have occurred means the frequency in turnover of occupation is different in character to that had the flat and the outbuilding been occupied by a single household. Furthermore, there is also the issue that those who occupy the outbuilding for short-term accommodation are likely to be doing so for the purposes of a holiday or recreation. As such, the occupants are more likely to give rise to higher noise levels at less sociable hours. The fact that the LPA has received no complaints is a moot point. Noise could arise without giving rise to complaints.
19. Similarly, the pattern of vehicular and pedestrian movements is likely to vary. This would materially increase from the situation were the flat and outbuilding occupied by a single household. Moreover, the pattern of movements will fluctuate, increasing and decreasing on a frequent basis depending on the people occupying the outbuilding, which means the associated movements will be materially different in character.
20. Thus, the pattern of occupation of the property can be characterised as transient rather than settled as would be the case with occupation of the outbuilding as ancillary accommodation to a single-family dwelling. As a result, I find that there is a significant difference in the character of the activities from what has gone on previously as a matter of fact and degree. The breach of planning control has resulted in the creation of a separate planning unit.
21. I have had regard to the various appeal decisions referred to by the appellants. The approach taken in those appears to be the same I have taken here. My conclusions may indeed be different, however, given the evidence before me.
22. Notwithstanding the above, the appellants also indicate that when the outbuilding is occupied, this is primarily on a non-paying basis. As a result, the definition of temporary sleeping accommodation in the GLCGPA would not be met, as there has been no consideration arising by way of trade for money or money's worth or by reason of employment.
23. However, even if use by family, friends or associates had occurred, and I was satisfied that it had not resulted in a material change of use of the outbuilding to temporary sleeping accommodation, I have found that the paid use of the outbuilding which has occurred in itself amounted to a material change of use to such a use. Any intermittent, lawful use between instances of the breach does not mean the breach has not occurred or did not involve a breach of planning control for the purpose of S171A of the Act.
24. I find, therefore, that the change of use of the outbuilding to temporary sleeping accommodation was material and therefore constituted development for the purposes of S55(1) of the Act. In the absence of evidence of any planning permission have been granted for such development, it amounted to a breach of planning control within the meaning of S171A of the Act. I will correct the notice to

ensure it refers to a material change of use to reflect the definition in statute. No injustice would arise as a result to the LPA or appellants.

25. The appeals on grounds (b) and (c) therefore fail.

Appeals on ground (g)

26. An appeal on ground (g) is brought on the basis that the time for compliance with the notice falls short of what should reasonably be allowed.

27. The notice requires the cessation use of the outbuilding for temporary sleeping accommodation within 1 month. The appellants argue that a period of six months would be more appropriate to account for guests who have booked in advance and for the appellants to submit a planning application to seek permission for the change of use of the outbuilding to temporary sleeping accommodation.

28. The appellants have provided no details of any bookings and thus, not demonstrated that any bookings would be affected by the one month compliance period. Moreover, there is little before me to suggest that the submission of a planning application would likely to occur even if the compliance period was extended to six months. In any event, the LPA has the power under S173A of the Act to vary the terms of the notice to extend the compliance in the event an application was submitted, and further time was needed to consider it.

29. The appeals on ground (g) therefore fails.

J Whitfield

INSPECTOR