



Appeal Decision

Site visit made on 10 February 2026

by **T C King BA(Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 March 2026

Appeal Ref: APP/J0350/C/24/3340753

2 Hinksey Close, Slough SL3 8EB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Ranjit Singh Janagal against an enforcement notice issued by Slough Borough Council.
 - The notice was issued on 13 February 2024.
 - The breach of planning control as alleged in the notice is, without planning permission, the material change of use of the land to 2 dwelling houses, incorporating a side extension and a front extension and
 - associated facilitating works ("the Unauthorised Change of Use") .
 - The requirements of the notice are to:
 - 1) Cease the use of the new dwelling house as a self-contained dwelling;
 - 2) Demolish the front porch extension;
 - 3) Demolish the new dwelling house and make good the flank wall of the original dwelling house; and
 - 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 (6) calendar months after this notice takes effect.
 - The appeal is proceeding on the ground[s] set out in section 174(2)(d), (f) and (g) of the Town and Country Planning Act 1990 (as amended).
-

Formal Decision

1. It is directed that the enforcement notice is corrected by inserting an either/or option with paragraph 5.3 amended to read:

‘Either, demolish the new dwellinghouse and make good the flank wall of the original dwellinghouse; Or, carry out alterations to the development so as to accord with the terms and conditions of planning permission ref P/10466/007 dated 30 December 2016.’

The notice is also varied by extending the compliance period from six months to nine months.

Subject to this correction and variation the appeal is dismissed, and the enforcement notice is upheld.

Application for Costs

2. An application was made by Slough Borough Council for a full award of costs against Mr Ranjit Singh Janagal. This application is the subject of a separate decision.

Background

3. In December 2016 planning permission (ref P/10466/007) was granted for the erection of a two-storey side and single-storey rear extension and front porch. However, the extension was not implemented in accordance with the approved plans, and the fact that the side extension had effectively facilitated the creation of an additional, separate and independent dwelling.
4. In December 2021, an application was submitted to the Council seeking retrospective planning permission ref (P/10466/009) for the development as built and the conversion of one dwelling into two. Planning permission was then refused in March 2022 on grounds of both character and appearance and the effect on the living conditions of neighbouring occupiers.
5. The breach continued and the Council subsequently saw it expedient to issue an enforcement notice to regularise the planning position.

Preliminary Matter

6. The notice has been appealed but no appeal under ground (a) has been lodged, meaning that no deemed planning application (DPA) falls to be considered and I am therefore unable to consider the planning merits and/or impacts of the unauthorised development.

The current planning position

7. The development built following the 2016 planning permission (ref P/10466/007) deviated from the approved plans on certain points, namely – and viewed externally - the erection of an unauthorised front extension, a dormer extension larger than that permitted, built to the front roof slope, the first floor rear extension, overlain by a pitched roof, built significantly deeper than that permitted, along with the installation of first floor windows in the extension's flank wall.
8. The Council has, in its 'Pre-application advice' letter dated 17 August 2023, incorporated the elevational and floor-plans approved under P/10466/007 and those subsequently refused retrospective permission under P/10466/009 on the application to retain the development as built and allow the new dwelling created. A comparison can be drawn between the respective plans and there is nothing to suggest, save for an apparent slight increase in the depth of the single-storey rear extension, that the originally intended footprint has not been followed.
9. The Council, when alerted to the said irregularities, served a Breach of Condition Notice (BCN), which allows for prosecution in the local magistrates court in the absence of any viable defence. The appellant says that the Council withdrew the BCN just prior to it issuing a Statement of Case on the current appeal. I have not been made aware as to why this occurred, but the fact that the Council initiated such action means that it accepted that the planning permission had been implemented, but not to the design approved.
10. Indeed, the Council's approach has confirmed my view that this is the legal position regarding the operational development element, whereas the material change of use, facilitated by the said development, is a separate matter. Accordingly, the starting point in the current appeal is the facilitative development involved.

Matters concerning the enforcement notice

11. Section 57(4) of the 1990 Act (as amended) says that where an enforcement notice has been issued in respect of any development of land, planning permission is not required for its use for the purpose for which it could lawfully have been used if that development had not been carried out. Accordingly, where there is a right to revert to a particular use, it is essential to ensure the requirements of an enforcement notice do not purport to restrict that right.
12. In the judgement of *Caldwell & Anor v SSLUHC & Anor* [2024] EWCA Civ 467 the Court of Appeal clarified that enforcement notices against material changes of use cannot be used to force the demolition of permanent buildings that are fundamental to, or causative of the material change of use, and which are immune from enforcement action. However, that is not the case in this instance as, from the evidence I have received - and I discuss this later in my decision letter - I have found that the operational development does not meet the applicable four year bar and, therefore, is not immune from planning control.
13. If an enforcement notice is concerned with a material change of use and associated works I need to consider whether corrections can be made to the alleged breach and whether those elements could be lawful.
14. The BCN would have required that the development be modified in order that the 2016 permission be implemented as approved. As such, if the BCN's requirements had been met then the modifications carried out would allow for the development's lawful retention. In such circumstances, the material change of use arising from the works and the creation of an additional dwelling could not form part of such remedial action.
15. The enforcement notice's requirements direct that the residential use of the self-contained unit created cease and that the dwellinghouse be demolished. The document, though, makes no provision for the development's modification and yet, if modified, accordingly, the lawful use rights to use the extension as additional living accommodation for the host dwelling (no 2) would not be extinguished. Accordingly, the appellant does have a potential fallback position.
16. Given the circumstances here, for the Council to achieve its objectives, I would have expected that the Council would have enforced against the unauthorised operational development separately. On the basis that the Council refused to grant planning permission (P/10466/009) for a series of reasons I am assuming that the enforcement notice's requirement to demolish the building is a response to this.
17. However, the notice's requirements must be the minimum necessary to remedy the breach and, as the appellant might afford himself the less draconian option of a fallback, I shall amend Requirement 3 to reflect this.

The appeal on ground (d)

18. An appeal under ground (d) is that at the time the enforcement notice was issued it was too late for the Council to have taken such formal action as, due to the passage of time, the development was actually then immune from planning control.
19. The appellant must therefore successfully demonstrate, on the balance of probability, that the breach of control alleged in the notice commenced on or before 13 February 2020 or, in other words, four years before the date of the issue of the

enforcement notice and has continued since this time. Accordingly, the appellant's evidence should be precise and unambiguous to this end.

20. The appellant, along with two Directors of companies commissioned to carry out works in the construction of the approved extension, have all produced statutory declarations to account for when the extension was built. It is said that construction works commenced on 20 November 2019, and dated photographs have been provided to indicate that this was likely the case.
21. The works included the side and rear extension, a dormer extension to the front roof plane, a front porch and new front entrance doors, and the Director of 'Central Bedrooms and Kitchens Ltd' says that these were all completed in full by 10 February 2020, although the appellant gives the date of 7 February 2020. However, there is no compelling evidence provided to demonstrate that the new dwelling created was occupied for habitable purposes by 13 February 2020. This represents the material change of use which the enforcement notice targets.
22. In the above connection the appellant's photographic evidence clearly shows that significant works were continuing on 7 February, with a trench running laterally ahead of the new entrance doors, surrounded by an area of heavy clay which would obviously impede access for persons. Whether the works carried out by that date constituted substantial completion of the operational development would have depended on a number of factors, most importantly in this instance being whether the building had achieved functional readiness for its intended purpose and could have been occupied, accordingly.
23. Obviously, if the building was only something of a shell at this time – and I am mindful that as construction had only commenced less than three months previously – then I have grave doubts that the development was either substantially complete, let alone ready for occupation as a separate and independent use by 13 February 2020.
24. My findings are reinforced, firstly by the Building Control Completion Certificate ref B/00468/19, supplied by the Council, which states that the works involving the part two-storey/part single-storey extension and the removal of a chimney were completed by 6 January 2021. Second, I have noted the appellant's declaration on the application form submitted in respect of P/10466/009, for which he was the applicant, which says that the associated works commenced on 20 November 2019 but the change of use – presumably referring to first occupation of the new dwelling created - did not actually take place until 18 November 2021.
25. The appellant's claims made for the current appeal are, therefore, imprecise, ambiguous and, as a result, far from compelling. The onus is on the appellant to provide the necessary evidence to support his case and, in the absence of such, and for the above reasons, there is no evidence before me to indicate that immunity from planning control had been reached by the time the enforcement notice was issued.
26. The appeal on ground (d) does not therefore succeed.

The appeal on ground (f)

27. An appeal under ground (f) is that the steps required by the enforcement notice to be taken, or the activities required by the notice to cease, exceed what is

necessary to remedy any breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. The starting point in a ground (f) appeal, therefore, is to identify the purposes of the notice.

28. In a simple case of a building erected without planning permission, if the requirement is to demolish the building the purpose of the enforcement notice is to remedy the breach. The same applies if a notice alleges that there has been an unauthorised material change of use and the steps are to cease the use. The notice at appeal here is clearly a case in point.
29. The next step is to consider whether there is any obvious alternative or lesser step that would achieve the purposes of the enforcement notice with less cost and disruption. The requirements of the notice should also be proportionate in the sense of being the minimum necessary to remedy the breach.
30. As mentioned, planning merits may only be considered pursuant to ground (a), where that is pleaded and the fee is paid for the DPA. If an appeal is not brought on ground (a), it is not appropriate for appellants to introduce arguments on the merits in the context of an appeal on ground (f). Also, if the purpose of the enforcement notice is to remedy the breach of control any lesser steps must achieve the same end.
31. The power to vary the terms of the notice under s176(1) of the 1990 Act cannot be used to attack its substance and, in this instance, I consider that the steps for compliance are all necessary to remedy the breach. For the reasons stated, though, an either/or option is necessary to highlight a possible fallback and protect the appellant's position. However, he must firstly assess whether modifying the side extension to accord with the terms and conditions of the earlier planning permission is a viable option.
32. If further negotiation is required at some future point in the above connection then that must remain a matter between the two main parties.
33. The appeal on ground (f) therefore succeeds in part.

The appeal on ground (g)

34. An appeal on ground (g) is that the time period specified to comply with the requirements of the enforcement notice is unreasonably short. Here, the Council has stipulated a period of six months. I am, though, mindful of the works involved and the consequent upheaval and, in the circumstances, I am prepared to allow an extension to nine months.
35. The ground (g) appeal therefore succeeds to this extent.

T C King

INSPECTOR