



Appeal Decision

Site visit made on 21 March 2026

by **A U Ghafoor BSc (Hons) MA MRTPI FCI fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 13 April 2026

Appeal Ref: APP/L5240/C/24/3340391

8 Grenaby Avenue Croydon CRO 2EG

- 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 "Act").
- The appeal is made by Mr Adnan Chaudhury against an enforcement notice issued by the Council of the London Borough of Croydon.
- The enforcement notice was issued on 6 February 2024.
- The breach of planning control as alleged in the notice is as follows: the conversion into and continued use of the main dwelling as two (2) self-contained flats with utilities such as combi boilers, electric changeovers/meters, kitchen, bathroom and water source already installed and the use of the outbuilding as a living unit without planning consent or other lawful authority via the Town and Country Planning Act 1990, Town and Country Planning (Development Management Procedure) (England) Order 2015.
- The requirements of the enforcement notice are to: (1) Cease the use of the property as a two (2) self-contained flats and revert the property to its original character as a single family dwelling house (C3) Residential Use (2) Revert the property to its original character by removing all partitions and doors which facilitate the conversion of the property into two (2) self-contained flats and you must remove all the utilities such as cupboards, the gas boilers, bathrooms, electric meters that were installed in the separate flats apart from the one serving the whole house (3) Stop the use of the outbuilding as a separate living unit and (4) remove all the resultant debris from the premises as a result of compliance with requirements 2 as identified above.
- The period for compliance with the requirement is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (d) and (f) of the 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.
- An application for costs is made by the appellant against the Council and that decision is attached at the end of this Decision.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections and variations in the terms set out below in the Formal Decision.

Preliminary matter

1. The allegation should describe development without planning permission, and it is unnecessary to cite the law. The appellant correctly interpreted the notice, and no injustice is caused to any party if I am to delete reference to the statutory instrument and reference to a continued use.

The immunity claim - ground (d)

2. Essentially, in this appeal the challenge is a simple one, namely, that at the date when the notice was issued, no enforcement action could be taken in respect of the breach of planning control which may be constituted by those matters. The burden of proof is on the appellant and standard is the balance of probability. Case law indicates that evidence does not need to be corroborated by independent evidence to be accepted, but does need to be sufficiently precise and unambiguous, even if there is no evidence to contradict it.

3. The notice was issued before April 2024 when time limits changed, and the relevant date therefore is 6 February 2020. By way of background information, the Council's report states the enforcement investigation began on 29 September 2020¹ but that is irrelevant.
4. No. 8 is a two-storey terrace dwellinghouse and there is an outbuilding in the rear garden. The main dwelling has been subdivided to form two self-contained flats separately accessed from within the porch, which has the main entrance to the building. The rear outbuilding is also occupied as a self-contained flat. Effectively, the single dwellinghouse forms three physically and functionally separate residential units of accommodation.
5. It is important to make a distinction between the terms *use as a single dwellinghouse* from what might normally be regarded *as being a single dwellinghouse*. Beginning with *Gravesham*, the Courts have consistently held that the distinctive characteristic of a dwellinghouse is its ability to afford to those who use it the facilities required for day-to-day domestic existence². The key message from these judgments and the findings therein serve to illustrate that, with each case, it is a matter of fact and degree based on the circumstances [my emphasis].
6. Against that background, I have reviewed all the evidence. To my mind, all this information demonstrates a fundamental misunderstanding. This is because the appeal parties focus on dis/proving the actual residential use without grappling with first principles. To succeed on this ground of challenge, the appellant's evidence must clearly demonstrate two key points: (1) when the property was physically converted into self-contained flats as claimed and, (2) 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. In that context, for the following reasons, the appellant faces an uphill struggle.
7. The appellant relies on tenancy agreements but, on their own, these do not demonstrate when the building operations involved in the conversion of the dwelling and outbuilding became self-contained flats: they do not divulge when the work was substantially complete. Clearly, the conversion of the single dwellinghouse and outbuilding into separate residential units of accommodation required considerable amount of physical works and materials: the latter could not come from nowhere.
8. Images of the two flats captured on a handheld device during January 2020 have been submitted and these show the internal layout and finishes to a high specification. These seem to show the dwelling had been subdivided into two flats although the outbuilding's condition is less clear. Nevertheless, I attach limited weight to this kind of evidence because, on its own, these do not clearly show when the conversion work was substantially completed. Nor unambiguously show each unit afforded viable facilities for independent living on or before the relevant date.
9. Corroboratory evidence in the form of an "owner statement/declaration" is submitted but it is not properly executed and that affects the weight I attach to the statement. Nonetheless, the appellant does not clearly explain a timeline for the work of conversion, nor say who did the building work and how it was arranged and implemented. The statement is lacking in detail and specificity about the dwelling's conversion into two flats and evidence about the outbuilding's conversion is absent. In a similar vein, there are no details about the nature, extent, scale, sequence or timings of the conversion work. Based on the available evidence, I cannot firmly conclude that the property's use as three self-contained dwellings commenced on or before the relevant date.

¹ Planning Officer Report submitted with the appeal questionnaire.

² See the case of *Gravesham BC v SSE and O'Brien*, [1983] JPL 306.

10. In my experience, documentary evidence is occasionally submitted to demonstrate and substantiate immunity claims together with a persuasive explanation of a timeline. For example, invoices for building materials might have given credence to the mobile phone images and arguments that the flats provided independent cooking, washing and sleeping facilities on or before the relevant date. In a similar vein, details about utility supplies or safety checks have not been provided. Further, invoices or receipts for kitchen units or other goods would have supported the appellant's claims. None of this type or kind of supporting documentary evidence has been tendered for my analysis. The absence of this kind of information makes comparisons between the appellant's claims and timings, sequence and scale of the physical conversion difficult to make. The lack of detailed evidence on this specific issue is unsurprising given the misdirected focus on solely establishing the residential use of each unit of accommodation.
11. My reasons above are sufficient to dislodge this ground (d) appeal. For completeness, I have considered documentary evidence pertaining to use of each flat. The focus is on proving use of the property as three self-contained dwellings and the appellant relies heavily on tenancy agreements and personal identification document of each tenant, but they do not prove occupation nor use. Nonetheless, contracts are helpful in appreciating the timings and level of occupancy and the submitted documents appear to show the two flats and outbuilding were used as someone's home from January 2020. However, on their own, the information lacks specificity and here is why.
12. Although agreements include schedule of payments and details of deposit paid, there is nothing before me to indicate when each tenant's rent was paid nor is there anything specific that clearly shows the payment was made in connection with the relevant dwelling throughout the relevant period. In addition, some of the the agreements' terms and conditions state the tenant's obligations are to pay and to keep the landlord indemnified against all charges in respect of utilities, and the agreement for the outbuilding indicates the rent includes bills. Yet, there is no specific documentary evidence showing utility charges or Council tax payments by each occupant throughout the relevant period. Apart from vague assertions and claims made about occupation of each flat, the lack of detailed evidence of this kind and nature makes comparisons between occupancy and scale of residential use difficult to make.
13. 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 material change in the use of no. 8 as alleged occurred on or before the relevant date, and that use continued thereafter for a period of four years without significant interruption.
14. I have also considered whether any of the flats may be immune from enforcement action. But the evidence presented is not persuasive enough so I cannot draw any firm conclusions on each unit of accommodation. This is because the quantum of evidence does not clearly show when each flat came into being and how it has been used thereafter for a continuous period of 4 years without significant interruption.
15. Frankly, and contrary to the appellant's case, I must conclude that the onus has not been adequately or convincingly discharged and so this ground (d) appeal must fail.

Ground (f)

16. Use of the property as three self-contained unit of residential accommodation, as described in the notice, is a material change of use for which express planning permission has not been obtained. From the wording of the whole document, the notice seeks to remedy that breach of planning control by restoring the land to its condition before the breach occurred; as a single dwellinghouse. That objective falls within s 173(4)(a). It is necessary to consider whether the requirements exceed what is necessary to remedy the breach (s 174(2)(f)).

17. It is apparent that the physical subdivision into self-contained flats involved considerable works of conversion. The main dwelling contains two flats, and the outbuilding is described as a studio flat each containing living space: bedroom, kitchen and bathroom facility at date of the notice. Each flat had the necessary facility for independent cooking, washing and sleeping. Clearly, the change of use of the property had been sustained by internal subdivision and installation of additional kitchens and bathrooms. There is no evidence to show that these works of conversion and installation of additional facilities was carried out in connection with the lawful use.
18. It appears to me that there is a fundamental and crucial link between the rearrangement of the property's layout, installation of additional kitchens and bathrooms and the subsequent use as self-contained flats. In my assessment, the former facilitates the latter. The nature and scale of the operations suggest that the additional kitchens, bathrooms and internal fittings and fixtures are integral to the unlawful use. Now, it is well established in case law that a notice can legitimately require the removal of ancillary works integral to and solely for the purpose of facilitating an unauthorised use.
19. In my considered opinion, the intent behind the notice can only be achieved by ceasing the unauthorised use and removal of all facilitating work as well as items introduced to enable the use of the property as three flats. However, I recognise the notice does not require the removal of cooking equipment or washing facilities from the outbuilding and to introduce such a requirement would expand the notice's scope and cause injustice. I find the appellant's arguments unpersuasive as the lesser steps advanced would not remedy the breach of planning controls and nothing short of total compliance would achieve that purpose. To my mind, the requirements are not disproportionate nor excessive.
20. That said, however, I am concerned about the phraseology used because it gives rise to different interpretations. For example, step (1) requires the following: '*Cease the use of the property as two (2) self-contained flats and revert the property to its original character as a single family dwelling house (C3) Residential Use*'. The notice seeks to control the future use and goes beyond its scope because it, potentially, seems to restrict lawful use rights. The property can revert to a single dwellinghouse and internal subdivision, including the subdividing doors at the entrance, internal fixtures, additional kitchens or bathrooms that facilitated the unauthorised use will be removed. Thereafter, provided occupants function as a single household, it seems to me that the character of that type of activity falls within the lawful use. Additionally, in step (2), use of the words '*...original character...*' is imprecise and the word '*...stop...*' in (3) should say "cease".
21. I am satisfied no injustice is caused to any party if the notice's requirements are varied and these do not make the notice any more onerous than first issued. As I am varying the notice, appeal on ground (f) succeeds to that limited extent.

Overall conclusions

22. For all the above reasons and having considered all other matters raised, I conclude that the appeal against the enforcement notice should fail on ground (d). As I am varying the requirements for precision and clarity's sake, ground (f) succeeds to that extent.

Formal decision

23. It is directed that the enforcement notice is:

Corrected by

- (1) Deleting all the text in section 3 and substitute therefor by the following allegation: *The material change in use of the property to two (2) self-contained flats facilitated by utilities such as combi boilers, electric changeovers/meters, kitchen, bathroom and water source already installed and the use of the outbuilding as a living unit.*

And varied by

- (1) In section 5 sub (1), delete the following text: '*...and revert the property to its original character as a single family dwelling house (C3) Residential Use.*'
- (2) In section 5 sub (2) delete the following text: '*...Revert the property to its original character by removing...*' and substitute therefor by the word '*...Remove...*'
- (3) In section 5 in sub (3) delete the word '*Stop*' and substitute therefor by the word '*Cease...*'

For the avoidance of doubt the requirements now read as follows:

- (1) Cease the use of the property as two (2) self-contained flats.
- (2) Remove all partitions and doors which facilitate the conversion of the property into two (2) self-contained flats, and you must remove all the utilities such as cupboards, the gas boilers, bathrooms, electric meters that were installed in the separate flats apart from the one serving the whole house.
- (3) Cease the use of the outbuilding as a separate living unit, and
- (4) remove all the resultant debris from the premises as a result of compliance with requirements (2) as identified above.

24. Subject to the corrections and variations, the appeal is dismissed, and the enforcement notice is upheld.

Costs application

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 195, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The applications are made by Mr Adnan Chaudhury for a full award of costs against the Council of the London Borough of Croydon.
 - Briefly, the appeal was in connection with an enforcement notice alleging the material change in use of the property to two self-contained flats and use of outbuilding as a flat.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant needed to appoint an advisor and extensive research was required to address the issues raised by the respondent. This includes compiling evidence, formulating and advancing a case. The applicant feels aggrieved by the respondent's decision to issue the enforcement notice.

4. However, as the PPG indicates, appeal parties need to bear their own costs. I do not consider researching planning principles, case law or putting together an appeal justify an award of costs. The applicant disagrees with the respondent's approach and investigation, but planning difficulties raised in the appeal required an exercise of judgment having assessed and analysed all the evidence relating to immunity. I note concerns about officers not turning up to site visits and the perceived lack of engagement. However, the respondent does not have to go out of its way and assist the applicant in their appeal or documentation: that is for the applicant to pursue as part of their appeal against the notice.
5. In this case, the submissions indicate to me that there has been a total breakdown of communication between the appeal parties: that is a matter for them to consider. Nevertheless, the respondent decided enforcement action was expedient based on the material facts and evidence, and the applicant exercised their right of appeal. At appeal stage, the respondent submitted sufficient arguments in support of its stance. The purpose of this application process is not to resolve by investigation every allegation of unreasonable behaviour. Rather it is to decide if an award of costs in respect of the appeals is justified on the available evidence in a particular case.
6. I have carefully considered this application but come to an inescapable conclusion. The applicant has not demonstrated that the respondent's behaviour before or after the taking of enforcement action amounts to unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG. It has not been demonstrated that an award of costs, full or partial, is justified in the circumstances.

A U Ghafoor

INSPECTOR