



Appeal Decision

Site visit made on 5 February 2026

by **E Griffin LLB Hons**

an Inspector appointed by the Secretary of State

Decision date: 29 April 2026

Appeal Ref: APP/G5180/C/24/3340466

15 Raymond Road, Beckenham BR3 4AR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Nigel Horridge against an enforcement notice issued by the Council of the London Borough of Bromley.
- The notice was issued on 7 February 2024.
- The breach of planning control as alleged in the notice is 'Failing to comply with condition 1 of planning permission 22/03843/FULL6 by occupying the summer house for purposes other than ancillary to the residential use of the dwelling known as 15 Raymond Road, Beckenham BR3 4AR, specifically by letting it out on a commercial basis'.
- Condition 1 reads: "The outbuilding hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 15 Raymond Road, Beckenham BR3 4AR."
- The requirement of the notice is to cease using the summer house other than for purposes ancillary to the residential use of the dwelling known as 15 Raymond Road
- The period for compliance with the requirement is 1 month.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (b) of the Town and Country Planning Act 1990 (the Act) (as amended).

Decision

1. It is directed that the enforcement notice is varied by:
 - (i) the deletion of the requirement in full and its substitution with 'Comply with condition 1 of planning permission 22/03843/FULL6 which states that "The outbuilding hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 15 Raymond Road, Beckenham BR3 4AR".'
2. Subject to the variation the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Planning History

3. The summerhouse which is also referred to as an outbuilding was granted planning permission on appeal subject to conditions on the 10 July 2023¹. The decision letter states 'the Council determined the application on the basis of the summerhouse being incidental to the use of the dwelling house. The submissions from the appellant confirmed that the outbuilding is used for leisure purposes ancillary to the use of the dwelling.' A condition was imposed restricting use to ancillary use.

¹ APP/G5180/D/23/3317773

The Notice

4. The Inspector has a duty to put the notice in order irrespective of the grounds of appeal. Paragraph 1 of the notice refers to a breach of planning control under section 171A (1)(b) of the Act which is failing to comply with any condition or limitation subject to which planning permission has been granted. The allegation at Paragraph 3 identifies the failure to comply with condition 1 and sets out the wording in full. However, the requirement refers to ceasing use rather than complying with the relevant condition which is more appropriate when a breach of condition is alleged.
5. I will therefore delete the requirement in full and replace it with the words 'Comply with condition 1 of planning permission 22/03843/FULL6 which states that "The outbuilding hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 15 Raymond Road, Beckenham BR3 4AR".' No injustice is caused to any party by the amendment as the requirement is not more onerous than the original wording.

The appeal under ground (b)

6. An appeal under ground (b) is that the matter alleged in the notice which is a breach of condition 1 has not occurred as a matter of fact. Condition 1 states 'The outbuilding hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 15 Raymond Road, Beckenham BR3 4AR'.
7. The inclusion of the words 'shall not be occupied at any time' means that the condition sets out definitive requirements as to how the outbuilding can be occupied and used at any given time. The outbuilding is let by the appellant to paying guests and is advertised as a 'cosy cottage' and a 'retreat.'
8. Providing accommodation on a commercial basis to people unconnected with the appellant means that at those times, neither the occupation nor the use of the outbuilding is ancillary to the dwellinghouse. The occupation and use does not comply with the condition and, consequently, is in breach of it.
9. The appellant has referred to the amount of days that the outbuilding was let out to paying guests between 6 April 2022 and February 2024 not resulting in a material change of use and has provided an appeal decision which addresses whether or not a material change of use has occurred. The dates provided included a period prior to the grant of planning permission which imposed the condition.
10. However, the allegation is a breach of the condition imposed on the 10 July 2023 when planning permission was granted which specifically restricts the use of the outbuilding not a material change of use. The appellant does not dispute that the outbuilding has been let out to paying guests since the condition was imposed. The breach of condition alleged has occurred as a matter of fact. The appeal under ground (b) therefore fails.

The appeal under ground (a) and the deemed planning application (DPA)

11. Where an appeal on ground (a) is submitted in cases relating to a breach of condition, planning permission is sought without complying with the particular condition enforced. It is open to me to discharge the relevant condition and

substitute any new conditions that may be required² and similarly to grant planning permission for the development subject to any necessary conditions³. The appellant wishes to continue to let out the outbuilding to paying guests on a short term basis which would require discharge or variation of the wording of condition 1 to allow commercial letting and imposing new conditions as appropriate.

Main Issue

12. The main issue is whether the development causes harm to the living conditions of occupiers of nearby dwellings on Upper Elmers End Road with particular regard to noise and disturbance.

Reasons

13. The appeal site consists of a two storey end terraced dwelling on Raymond Road with a rear garden which tapers into a point at the end to form a wedge shape. The outbuilding is located within that wedge. The garden of No 44 Upper Elmers End Road has a shared boundary along part of the side and all of the rear of the appeal garden. At its narrowest, the outbuilding is around 0.4 metres from the shared boundary.
14. Due to the presence of a bend on Upper Elmers End Road, the gardens in this location are not particularly long which is in contrast to the longer appeal garden. The shorter length of gardens also means that as well as No 44, there are other properties on Upper Elmers End Road which are closer to the outbuilding than the appellant's dwellinghouse.
15. The outbuilding is around 3.5 metres at its highest point and has a ground floor and a mezzanine floor with a double bed and a skylight. On the ground floor, there is a separate shower room with a toilet. The living area has kitchen cupboards, a fridge and appliances such as a toaster and kettle. There is no TV or cooker although the absence of those features is likely to encourage use of the outdoor facilities and cooking on a barbeque. Third party comments also refer to a projector being used and loud music being played.
16. When let, it is very likely that the development would be occupied by persons previously unconnected to the appellant, visiting the area for a short period who have found the accommodation through advertising. The outbuilding is advertised as having a private patio with decking as well as private use of the separate wooden sauna building and hot tub which are located close to the outbuilding. There is an open archway with trellising across the width of the garden to provide a degree of separation and privacy between guests in the outbuilding and the occupiers of the dwellinghouse. Access to the outbuilding is obtained with a key code to the side gate across the garden and not through the dwellinghouse.
17. If guests are in occupation for two nights in the outbuilding, they will want to make full use of the private outdoor facilities for which they have paid. The use of the outdoor hot tub and sauna building together with an outdoor table and chairs, patio heater and extensive decking is likely to be popular. There is likely to be late night use and concentrated use of outdoor facilities over a short period of time. The nearby occupiers of Upper Elmers End Road will also wish to use their gardens

² Under the provisions of s177(1)(b) and s177(4) of the Town and Country Planning Act 1990

³ s177(3) and s70(1)(a) of the Act

and open their windows particularly at night but indicate that the proximity and nature of short term letting restricts the use of their homes.

18. The Council refers to first receiving a complaint about use of the summer house with sauna and hot tub being advertised on Airbnb back in July 2022. Subsequent complaints were made highlighting the commercial use of the outbuilding and the part of the garden with the outdoor facilities including barbeques. As part of this appeal, the nearest occupiers on Upper Elmers End Road have set out their concerns.
19. They refer to the presence of the hot tub and sauna meaning wood burners are used which generates 'toxic smoke,' not being able to sit in their gardens, being able to hear loud conversations in the garden, not being able to put washing out due to the smoke and having to keep windows shut in summer. Noise from the hot tub is also an issue with 'loud humming from the pumps.' They emphasise the proximity of their gardens and bedrooms in comparison to the appellant who may be unaware of any disturbance particularly if they sleep at the front of their property.
20. A plan provided by a third party shows the close proximity of the nearest bedrooms of four properties on Upper Elmers End Road in comparison to the distance to the front bedroom of the appellant's property facing onto Raymond Road. Whilst the appellant may choose to use a bedroom at the back of their property rather than the front, the identified properties are still more likely to be disturbed by noise due to their proximity to the outbuilding than the appellant.
21. The appellant indicates that short term holiday letting does not cause any more harm than occupation by a member of the appellant's family. However, the way that the appeal site is used by paying unrelated guests is very unlikely to be the same. Family occupants would spend time inside the more spacious appeal dwelling or in the garden area directly behind the dwelling and are likely to cook, eat and relax with the appellant. As regular visitors to the appeal property, their priority is not to make the most of outside facilities over short, concentrated periods of time.
22. The appellant has referred to gardens on Upper Elmers End Road being closer to each other than the appellant's garden and outbuilding. However, the crucial difference is the nature of the use that arises from short term letting. The concentrated use of the outbuilding use stems from a combination of factors including being on holiday, the size of the outbuilding and the available outside facilities all of which are likely to result in guests being outside for long periods particularly late at night. The enclosed sauna building and heated hot tub can be used outside of the summer period as their use is not weather dependent. It is also the case that people who live alongside each other are also more likely to maintain neighbourly relations than people who are staying for a short period.
23. The appellant considers that the complaints are exaggerated and that the occupiers of No 40 and 42 are too far away from the outbuilding to be affected. However, at the same time, the appellant states that he has heard loud music from No 44 inside his home which is 30 metres away. The appellant has indicated that there is some initial smoke despite using smokeless fuel and refers to a neighbour having a wood burner. However, the two situations are not comparable. Steps such as raising the fence height may have provided more privacy for guests but have not addressed the concerns of the Council or the nearby occupiers.

24. I do find that the use of the outbuilding other than for ancillary use harms the living conditions of occupiers of nearby dwellings on Upper Elmers End Road with particular regard to noise and disturbance.
25. The appellant has proposed that any finding of harm could be overcome by imposing conditions. They include limiting occupation to two adults, the number of nights of occupation to 90, the outbuilding not be let out except where the appellant is in occupation of the dwellinghouse and a register of all lettings to be made available for inspection by council officers. Limiting the number of nights of rental does not address the harm that can occur for 90 nights. Section 25 of the Greater London Council (General Powers) Act 1973 as amended by section 44 of the Deregulation Act 2015 does allow short term letting for a maximum of 90 nights subject to limitations and conditions. However, that provision is specifically excluded where there is a condition in place which restricts use.⁴
26. The appellant states that the number of occupants is already limited to 2 adults although it is not clear if beds will be available for children or if dogs would be allowed, the number of nights is already limited to 90 and the appellant states that there has always been occupation of the dwelling when renting occurs. Harm has therefore occurred when these measures have been in place. Maintaining a register to be inspected by the Council would only be of assistance if I considered that the other proposed conditions overcame the harm that I have found which is not the case. The proposed conditions either together or separately do not overcome the harm that I have found.
27. The outbuilding was granted retrospective planning permission subject to the condition restricting the use to ancillary use which met all of the statutory tests for imposing a condition. The condition ensured compliance with Policy 37 of the Bromley Local Plan which states that development should respect the amenity of occupiers of neighbouring buildings providing healthy environments and ensuring that they are not harmed by noise and disturbance.
28. For the reasons given, I cannot conclude that the condition should now be discharged or varied and replaced with other conditions to allow occupation and use other than for purposes ancillary to the appeal property. The appeal on ground (a) fails.

Conclusion

29. I conclude that the appeal should not succeed. I shall vary and uphold the enforcement notice and refuse to discharge or vary the condition and grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

E Griffin

INSPECTOR

⁴ Section 25A (1)