



Appeal Decision

Site visit made on 25 April 2026

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

an Inspector appointed by the Secretary of State

Decision date: 22 May 2026

Appeal Ref: APP/R5510/C/24/3345966

Westbury, Judge Heath Lane, Hayes Uxbridge UB8 3JU

- 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").
 - Appeal is made by Mr Amarjit Singh Dhunna against an enforcement notice issued by the Council of the London Borough of Hillingdon.
 - The enforcement notice was issued on 1 May 2024.
 - The breach of planning control as alleged in the notice is the material change of use of the outbuilding as an independent self-contained residential dwellinghouse.
 - The requirements of the enforcement notice are to:
 - (1) Cease the unauthorised use of the outbuilding as an independent residential unit hatched purple on the notice plan.
 - (2) Dismantle and remove from the outbuilding the "fitted kitchen" comprising the cooker, cooker extractor fan, sink, work surface(s) and wall/floor cupboard units and stop up all plumbing, electricity, and gas connections.
 - (3) Dismantle and remove from the outbuilding the "bathroom" comprising the bath and shower and associated plumbing, the sink unit and associated plumbing, and the toilet pan and toilet cistern.
 - (4) Dismantle and remove from the outbuilding the internal studwork wall delineating the bathroom from the kitchen and bedroom.
 - (5) Remove all boundary fencing subdividing the curtilage between the dwelling house and the residential outbuilding, approximate position indicated blue on the notice plan, and
 - (6) Remove from the land the debris, items, fixtures and fittings, furniture, building materials, plant and machinery resulting from the dismantling works listed above.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (b), (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.
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Decision

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

Ground (b) - *has the alleged breach occurred?*

2. The period leading up to the issuing of the notice and at the date of issue is relevant. At final comments stage, the appellant explains the outbuilding was occupied and used for a temporary period. However, in January 2024 officers visited the site and inspected the outbuilding, which appeared occupied and in residential use and contained the necessary wherewithal for day-to-day domestic existence. The tenants informed officers they were renting the outbuilding. Although at the time of my site visit the outbuilding did not appear to be in residential use, the Council's photographic evidence is particularly instructive as these clearly show someone used the outbuilding as their home during the period leading up to the issuing of the notice. On the balance of probability, the Council's description of the alleged breach is correct and the alleged matters had in fact occurred at the date of issue. Ground (b) therefore must fail.

Ground (d) – is it too late to act?

3. In short, no: here is why. Essentially, 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 outbuilding's residential use, due to the passage of time. The main argument is that the residential use commenced on or before the relevant date, which is 1 May 2020 and continued thereafter. In this challenge, the burden of proof is on the appellant, with the relevant test of the evidence being on the balance of probability. The 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.
4. 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* [my emphasis]. 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 existence¹. 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.
5. I have reviewed all the evidence submitted by the appeal parties, including the bundle of evidence. To my mind, all this information demonstrates a fundamental misunderstanding. This is because the appeal parties focus on dis/proving the outbuilding's self-contained residential use without grappling with first principles. Having regard to well-established case law, it is first necessary to consider evidence showing when the outbuilding became a single dwelling and when/how it was occupied and used as a single dwellinghouse without significant interruption [my emphasis]. Against that background, the appellant faces an uphill struggle.
6. Apart from vague and generalised statements as to the date when the outbuilding afforded facilities for separate cooking, washing and sleeping, no start date is advanced, and it is unclear as to when the kitchen and bathroom were in fact installed. To my mind, the conversion work required resources given the internal layout and configuration: it is unclear to me when and from where material for the kitchen and washroom was acquired. Usually, to support immunity claims such as this, documentary evidence in the form of invoices or receipts for building material or fittings required to create viable facilities for cooking and washing are produced.
7. In the absence of this kind of information, it is difficult to make comparisons and establish a clear and precise timeline. Despite having an opportunity to submit relevant and supporting documentary evidence about the conversion work and when the outbuilding became a dwelling, there is no plausible explanation as to what works were carried out, who carried them out, what was installed and sequence of events and there is a lack of contemporaneous records. The absence of this kind of evidence makes it highly problematic to make comparisons with the nature and scale of the claimed residential use and the sequence, timings and version of the events. In my mind, this lack of detail casts significant doubt as to the veracity of the claims made in the statutory declarations and, in turn, affects the weight I attach to them.
8. I find that the quantum of evidence presented does not support the proposition that the outbuilding afforded viable facilities for day-to-day living on or before the relevant date. On the balance of probabilities, at best, the evidence is ambiguous and uncertain. My analysis of the first issue is sufficient to conclude the appeal fails. However, for completeness, I will also review the evidence about occupation and use.
9. In terms of how the outbuilding functioned as someone's dwellinghouse, tenancy agreements have been provided, but none of this kind of information necessarily shows occupation and use

¹ Applied: *Gravesham BC v SSE and O'Brien*, [1983] JPL 306.

of the outbuilding. In fact, they appear to relate to the host dwelling as confirmed by the appellant. In addition, there is conflicting evidence because the testimony suggests the outbuilding may have been used for incidental residential purposes linked to the occupation and use of the main dwelling during the relevant period. For example, as a gym, recreational space and storage. Additionally, there is no supporting evidence showing how rent was paid by the occupiers and invoices for utilities settled.

10. Drawing all the above threads together, on the balance of probability, I find that the onus of proof has not been discharged. This is because in support of this ground of appeal, the evidence as to when the outbuilding materially changed to an independent self-contained residential dwellinghouse is insufficient, lacking in detail and ambiguous and imprecise. In addition, the evidence about continuous use is also lacking in specificity.

Ground (f)

11. Residential use of the outbuilding, 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 ceasing that use: the notice does not require demolition of the outbuilding but requires the removal of the kitchen, bathroom and internal fittings/fixtures. That objective falls within s173(4)(a). It is essential to consider whether the requirements exceed what is necessary to remedy the breach (s 174(2)(f)).
12. It is apparent that the conversion involved considerable works including internal partitioning installation of kitchen and bathroom: that was the circumstance at date of the notice. Irrespective of the immunity claims, clearly, the change of use of the outbuilding had been sustained by internal work and the installation of kitchen and bathroom. There is no evidence to show that these works of conversion and installation of facilities was carried out in connection with a lawful use, and, as I have already said elsewhere, there is nothing to show when the kitchen and bathroom were installed.
13. It appears to me that there is a fundamental and crucial link between the arrangement and subdivision works of the outbuilding's layout, installation of a kitchen and bathroom and the subsequent use as self-contained dwelling. In my assessment, the former facilitates the latter. The nature and scale of the operations suggest that the kitchen, bathroom 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.
14. 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 residential use of the outbuilding. No lesser step would achieve the purpose to remedy the breach and the steps required are proportionate. Ground (f) fails.

Overall conclusions

15. 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 (b), (d) and (f) and the appeal is dismissed.

A U Ghafoor
INSPECTOR