



Appeal Decision

Site visit made on 25 March 2026

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 3rd June 2026

Appeal Ref: APP/N5090/C/24/3351673

15 Lynford Gardens, Edgeware HA8 8TX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Albert Abraham against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice was issued on 1 August 2024.
 - The breach of planning control as alleged in the notice is 'Without planning permission, the making of a material change of use of the outbuilding to the rear to use as a commercial office.'
 - The requirements of the notice are
 1. Cease the use of the outbuilding as a commercial office
 2. Permanently remove all but one workstation/desk from the outbuilding.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (c) and (f) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is corrected by:
 - (i) the substitution of the plan annexed to this decision for the plan attached to the enforcement notice
2. Subject to the correction, the appeal is allowed and the enforcement notice is quashed.

Preliminary Matters

3. The appeal is proceeding on grounds (b), (c) and (f). There is no ground (a) appeal which would include an application for planning permission and I am not therefore considering the planning merits of the development.
4. I carried out an 'access only' site visit to see the context of the outbuilding and its surroundings. However, as the site visit was conducted some time after the notice was issued, I am not assessing any changes to internal layout or features that have occurred within the outbuilding since the notice was issued as part of this appeal.

The Notice

5. The Inspector has a duty to put the notice in order irrespective of the grounds of appeal. The allegation is 'Without planning permission, the making of a material change of use of the outbuilding to the rear to use as a commercial office.'
However, the enforcement notice plan covers a wider area than the outbuilding as it also includes the garden and dwellinghouse. The plan should identify the area where the alleged breach has occurred and the Council has provided a new plan. No injustice is caused by substituting the plan as the appellant has understood

what is alleged. I will substitute the new plan showing the outbuilding only for the original plan.

The appeal under ground (b)

6. An appeal on ground (b) is that the matter alleged in the notice has not occurred, as a matter of fact. The matter alleged is that the outbuilding is being used as a commercial office. The appellant does not dispute that the outbuilding is used for office work in connection with his business but considers that a material change of use has not occurred. However, an argument that there is not a material change of use, is a ground (c) matter as the question of materiality goes to whether planning permission is required. The appeal under ground (b) therefore fails.

The appeal under ground (c)

7. An appeal on ground (c) is that the matter alleged does not represent a breach of planning control. The burden of proof is on the appellant on the balance of probabilities. The appellant's argument is that the extent of office use taking place is incidental to the enjoyment of the dwellinghouse and is not therefore a material change of use which requires planning permission. On that basis, planning permission would not be required under Section 55(2)(d) of the Act. However, the appellant also maintains that the outbuilding is not in primary commercial use. I will address incidental use first.

Incidental Use

8. The appellant has referred to the Planning Practice Guidance (PPG) which states that planning permission will not normally be required to home work or run a business from home provided that such use is incidental to the use as a dwellinghouse. It also states that whether a material change of use has taken place is a matter of fact and degree to be determined on the individual merits of the case.
9. The outbuilding is located at the end of the modest garden which is to the rear of the appellant's semi-detached dwelling. A wooden side gate provides access to the garden and the rear of the dwelling as well as the outbuilding.
10. The appellant runs a business supplying and fitting security gates. The gates are manufactured in a factory and delivered directly to customers' homes for installation. The appellant's business also has an office in Hendon. He uses the outbuilding as a home office to do his paperwork and also conducts virtual meetings. He accepts that there are work related items including sample gates and work banners in the outbuilding and there are desks with computers. He states that the work related items are present to create a work like environment for virtual meetings.
11. The outbuilding is also used by other members of staff. The appellant refers to one and sometimes two part time office staff sending out quotes and scheduling visits. The part time work is carried out between the hours of 8.30am and 12.30pm Monday to Thursday. One of the part time employees who lives nearby occasionally works from the outbuilding rather than travelling to the office in Hendon. There are four computers of which one and occasionally two are used by office staff. The appellant will also be using his own computer. Occasionally a potential client who lives locally will visit but not more than once or twice a week

but usually less often than that. There is also reference to occasional visits by the installation contractor to pick something up or to pop in for a chat. The appellant asks for deliveries to be made to the side gate rather than leaving them on the front porch and there may be some deliveries which are office supplies. The side gate is also used by friends and family as they are likely to find the appellant in the outbuilding.

12. The Council carried out a site visit after a complaint was made about the use of the outbuilding. At the site visit, the Council saw a bank of four desks with a printer and work paraphernalia which includes gates and work banners. The Council saw childrens textbooks but referred to the appellant being aware that the visit was to take place.
13. The complainant has referred to comings and goings by people who have been identified from the appellant's website and 'deliveries almost every day by lorries, vans and cars.' The outbuilding is referred to as being 'open' to the public and for deliveries from 9 a.m. to 6 or 7 p.m. for 6 days a week. However, the outbuilding is located at the rear of the garden and only accessible through a side gate set back from the road which is unlikely to attract passing trade.
14. Nevertheless, there are some potential customers who call. The appellant states that home deliveries and some business deliveries are made to the side gate as the appellant is likely to be in the outbuilding to sign for deliveries. I have no details of the volume or extent of the deliveries or the proportion of work related deliveries.
15. A number of local residents have provided comments in support of the appellant. However the wording of the allegation and the inclusion of the word 'commercial' means that a number of the comments have stated that they have not witnessed commercial activity or operations. Without further details, it is not clear what actual activities the local residents have witnessed and how they are distinguishing activities as being domestic rather than commercial. Similarly, some comments refer to no activity or no increase in activity or no unacceptable levels of noise. There clearly is activity when there is a household of 6 at the appeal property.
16. There could be two employees plus the appellant, the installation contractor, and a potential customer attending at the outbuilding at any one time and there are delivery drivers calling at the property. Whilst local people may walk to the office, time constraints, weather and personal commitments may result in car use.
17. The appellant has referred to who may visit and what may happen but there is limited detailed information as to what level of business was occurring in the period prior to the issue of the notice. It is then difficult to assess the level of comings and goings attributable to the business. With an appeal under ground (c) the burden of proof is on the appellant on the balance of probabilities.
18. I am mindful that the appellant maintains that the appeal site continues to be used in connection with the residential use and his has four teenage children. There was some evidence of domestic use at the time of the Council's visit with childrens textbooks. The downstairs layout of the dwelling house is open plan. The garden is clearly used by the teenage children and that is evident from the Council's photographs of the site visit.

19. However, there is limited information before me as to how the business use and any family use co-exist and when the two uses take place. It is not possible on the evidence before me to distinguish between work deliveries and family deliveries and family and friends are encouraged to use the side gate as the appellant is likely to be in the outbuilding.
20. The PPG refers to assessing whether a notable change in the character of the property's use has occurred which can include factors such as increase in traffic and parking and disturbance to neighbours caused by regular or the number of visitors or deliveries. There are comings and goings associated with the business and, on the evidence before me, I cannot be satisfied, on the balance of probabilities that the extent and nature of the office use taking place is incidental to the enjoyment of the dwelling house. It does not therefore fall within the exclusion in Section 55 (2)(d) of the Act.

Whether the primary use of the outbuilding is commercial use

21. The Council alleges that a separate planning unit has been created and that the primary and only use of the new planning unit is a commercial use. It states '*Physically and functionally, the outbuilding is separate from the house, it is not part of the same planning unit*' with a reference to the case of *Burdle*¹.
22. The outbuilding is not physically separate from the garden and dwelling. Visitors to the outbuilding will cross the garden to get to the outbuilding irrespective of whether they come to the side gate or the front door or whether they are family, friends, employees or potential customers. The Council refers to the side gate as a separate access but the side gate is in the same location as before and still provides access to the garden and rear of the dwelling.
23. The appellant has referred to the outbuilding still being used by the family particularly the children both to do homework and for the family as a whole for socialising with friends particularly when the downstairs layout of the dwelling is open plan. Given its location next to the garden with no physical separation from the rest of the curtilage of the dwelling house, I consider it very likely that the outbuilding is still used by the family. There is therefore no physical or functional separation of the outbuilding from the garden and dwelling.
24. Whilst, I have found that the use of the appeal site is not incidental to the residential use, equally, on the evidence before me, the commercial office use of the appeal site cannot be considered to be the only primary use of the land. I consider that the original single planning unit which includes the garden, the outbuilding and the dwelling still exists and is made up of a mixed use of residential and commercial office use.
25. A material change of use to a commercial office has not therefore occurred as a matter of fact as the commercial office use does not amount to a primary use in its own right. I have considered whether I could correct the allegation without causing injustice but have concluded that I could not do so. I do not know what evidential arguments or grounds of appeal would have been advanced by the parties with a different allegation.

¹Paragraph 5.6 of the Councils statement

Conclusion

26. For the reasons given above, I conclude that the appeal should succeed on ground (c). The enforcement notice will be quashed. In these circumstances, the appeal on ground (f) does not fall to be considered.

E Griffin

INSPECTOR