



Appeal Decision

Site visit made on 6 July 2026

by **E Griffin LLB Hons**

an Inspector appointed by the Secretary of State

Decision date 22 July 2026

Appeal Ref: APP/N5090/C/25/3371020

16 Lichfield Grove, London N3 2JP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended)
- The appeal is made by Kim Ming Teo against an enforcement notice issued by the Council of the London Borough of Barnet
- The notice was issued on 8 July 2025.
- 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 use as a self-contained dwellinghouse'
- The requirements of the notice are
 1. Cease the use of the outbuilding as self-contained dwellinghouse
 2. Permanently remove any kitchen unit, sink, cooker and food preparation area from the outbuilding
 3. Permanently remove any shower facilities from the garage.
 4. Permanently remove fences that separate the main house and outbuilding at the rear of the property .
 5. Permanently remove all constituent materials resulting from the works in 2, 3 and 4 above from the property .
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(b) and (f) 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) Deleting the word 'garage' from the third requirement and replacing it with the word 'outbuilding.'
2. Subject to the variation, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

3. The allegation is that there has been a material change of use of the outbuilding in the rear garden to a self-contained dwelling. Since the issue of the enforcement notice in July 2025, planning permission was granted on appeal on 2 February 2026¹ for 'a detached garden room' which is the outbuilding referred to in the notice. The parties were invited to make comments upon that appeal decision and the approved plan with regard to its relevance to this appeal but no comments were received. I will however address the relevance of the grant of planning permission under ground (f).

¹ Appeal Ref : 6000302

The Notice

4. The third requirement contains an error as it refers to the removal of the shower facilities from the garage rather than the outbuilding. However, the appellant has understood that the requirement relates to the outbuilding as there is no garage. I will substitute the word garage with the word outbuilding to provide clarity and without causing injustice.

The appeal under ground (b)

5. An appeal under ground (b) is that matters stated in the notice have not occurred as a matter of fact. The burden of proof is on the appellant on the balance of probabilities. The notice alleges the material change of use of an outbuilding to a self-contained dwelling house. The appellant maintains that the outbuilding is not self-contained and is in ancillary use.
6. There is no statutory definition of a dwellinghouse in the Act but it was accepted in *Gravesham BC v SoS for the Environment (1982) 47 P&CR 142* that the distinctive characteristics of a dwellinghouse is its ability to provide the facilities required for day to day private domestic existence.
7. The outbuilding is located at the rear of the appeal site. To the front, the main building consists of two flats Nos 16 and 16A Lichfield Grove which have separate front doors. Access to the outbuilding is along the side of the main building from the front then across the rear garden. It would also be possible to obtain access from the rear of the flats. The outbuilding consists of a ground floor and a basement. At ground floor level, there is an open plan area which includes kitchen units, with a separate shower room to the side. An internal staircase leads to the basement which has two further rooms and a smaller space with an open grille style roof.
8. The Council has provided photographs taken at the time of a visit in May 2025. On the ground floor, they show a fully fitted kitchen, washing machine, oven with extractor hood and hob as well as a large settee and a sofa bed which had been pulled out which can provide sleeping facilities. A separate shower room is to the side. A wooden fence with a matching door was in place across the appeal garden and physically separated the outbuilding which had its own paved area from the remaining area of garden closest to the flats.
9. At the time of my site visit, changes had been carried out at the appeal site. The dividing fence and door have been removed and are stored at the side of the garden. The washing machine, oven and sofa bed have also been removed. There was a cross trainer and treadmill in the space previously occupied by the sofa bed. At basement level, there was a desk and computer and storage of files. However, for the purposes of this appeal, I am assessing what had occurred at the appeal site prior to the issue of the notice in July 2025.
10. The appellant maintains that the outbuilding has not been used as a self-contained dwelling. He has provided a statutory declaration which states that 'the building has never at any time been used as a separate dwelling and has been used by himself and occupiers of 16 Lichfield Grove as a home office and gym with ancillary storage areas at basement level'.

11. The appeal statement indicates that the appellant has been using the building as a gym/home office on an ad hoc basis with the kitchen being used to prepare modest meals and snacks. No details are provided of the other users of the home gym or the home office apart from the appellant. There is no explanation as to why extensive facilities which include a fitted kitchen, a washing machine, a sofa bed in addition to a settee, and a shower room are required for ancillary use as an office, gym or storage.
12. The appellant's address on the appeal form and in his statutory declaration is No 9 Lichfield Grove. From my site visit observations, No 9 Lichfield Grove is directly across the road from the appeal site. The appellant's refers to the outbuilding as his home office and gym despite not living at the appeal site and draws no distinction between his use of the outbuilding and use by occupiers of the flats. There is no specific information before me as to the nature and use of the outbuilding by occupiers of the flats.
13. The extensive kitchen facilities which included a washing machine are not required for ancillary use. The appellant states that the outbuilding lacked sleeping facilities but the Council's photographs clearly show a sofa bed. The declaration does not address in any detail the extent and nature of the appellant's use of an outbuilding which is not part of his home.
14. Prior to the issue of the notice, the outbuilding contained a kitchen with extensive facilities for cooking, shower room, a sofa bed and a washing machine. The outbuilding was physically separated from the rest of the appeal site and the main building with a fence and door. There was separate external access without the need to go through the main building.
15. On the balance of probabilities and on the evidence before me, at the relevant period, the outbuilding had the ability to afford to those who use it the facilities required for day to day private existence, this being the distinctive characteristic of a dwelling house. The material change of use to a self-contained dwelling has in fact occurred. The ground (b) appeal therefore fails.

The appeal under ground (f)

16. Section 174(2)(f) of the Act states that an appeal may be made on the ground that the steps required by the notice to be taken, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
17. The requirements are to cease the unauthorised self-contained use and to remove kitchen and shower facilities as well as the dividing fences and to remove constituent materials resulting from compliance with the other requirements. The purpose of the notice is therefore to remedy the breach. The appellant states the requirement to remove the fence has been complied with. However, some fence post slots remain. The requirement to remove materials arising from compliance with the other requirements will also include removing the fencing which is stored in the garden of the appeal site.

18. Case law² states that an enforcement notice directed at a material change of use, may require the removal of works integral to and solely for the purpose of facilitating the unauthorised use, even if such works on their own might not constitute development or be permitted development, or be immune from enforcement, so that the land is restored to its condition before the use took place
19. The appellant has indicated that the kitchen facilities will be removed, if required. The removal of the kitchen facilities is not excessive as the presence of an oven, hob, kitchen and sink units which include a space for a washing machine have facilitated the use of the outbuilding as a self-contained unit. Kitchen facilities are also not a feature of ancillary buildings and are associated with primary residential use.
20. The appellant considers that the removal of the shower facilities is not necessary to ensure that self-contained use does not take place in addition to removal of kitchen facilities and a requirement to cease self-contained use. I have no details from the appellant as to when the shower facilities were installed or whether they were installed when the outbuilding was constructed.
21. Nevertheless, planning permission was granted for the outbuilding on 2 February 2026 subject to a condition that the development permitted shall be carried out in accordance with the approved plan, drawing no LG/01. The approved plan includes a shower room. As the planning permission was granted after the enforcement notice was issued, Section 180 of the Act is relevant.
22. Section 180 (1) of the Act provides that where planning permission is granted after service of an enforcement notice for any development carried out, the enforcement notice shall cease to have effect in so far as it is inconsistent with the planning permission. Given the provisions of Section 180, there is no need for me to vary the requirement relating to the shower facilities as the notice will cease to have effect in so far as it is inconsistent with the planning permission. The appeal under ground (f) therefore fails.

Conclusion

23. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation.

E Griffin

INSPECTOR

² *Murfitt v SSE* [1980] JPL 598