



Appeal Decision

Site visit made on 21 July 2026

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 August 2026

Appeal Ref: APP/T5150/C/25/3358475

120 Slough Lane, London, NW9 8XL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended.
- The appeal is made by Mr. Mohammad Hamza against an enforcement notice issued by the Council of the London Borough of Brent.
- The notice was issued on 28 November 2024.
- The breach of planning control as alleged in the notice is *without planning permission, the material change of use of the former garage to a dwelling*. ("the unauthorised change of use").
- The requirements of the notice are:
 - STEP1 Cease the use of the former garage as a dwelling.
 - STEP2 Remove all fixtures and fittings associated with the unauthorised change of use, including the kitchen and the bathroom, from the former garage.
 - STEP3 Remove all associated waste, debris and materials, arising from compliance with the above steps, from the premises.
- The period for compliance with the requirements is: *6 months after this notice takes effect*.
- The appeal is proceeding on the grounds set out in section 174(2)(b) and (c) of the 1990 Act (as amended).

Formal Decision

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

Preliminary Matters

2. Since the enforcement notice has been served, the appellant has made alterations to matters alleged in the notice. At the time of my visit, the garage subject to the notice comprised little more than ancillary storage associated with the main property. The washing facilities had been altered, with the removal of the shower and basin. The bed has also been removed, along with the cooker, fridge and taps on the kitchen sink. It would therefore appear that the notice has partially been complied with. Nevertheless, the kitchen sink, worktop and cabinets remain, as does a boiler. The pedestrian gate to access the rear garden from Woodland Close has also been retained.
3. Section 181(1) of the 1990 Act (as amended) makes it clear that compliance with a notice does not discharge it. This appeal still needs to be determined in the absence of either its withdrawal by the appellant or by the notice being withdrawn by the Council. Therefore, I have based my decision on the development that existed at the time the enforcement notice was served.

Appeal on ground (b)

4. An appeal on this ground is that the matters alleged in the enforcement notice, have not occurred. In order to succeed on this ground, the appellants must demonstrate that, on the balance of probability, the matters stated in the notice have not occurred as a matter of fact.

5. The appellant seeks to demonstrate that the change of use of the garage, at the rear of the main property, to a dwelling has not occurred. From the information before me and following my site visit, the garage has been redeveloped internally to provide habitable accommodation. This included the provision of a kitchen/dining/lounge/bedroom and bathroom facilities albeit now removed. The garage door had also been replaced with a pedestrian accessway.
6. The appellant claims that the accommodation is incidental to the primary use of the main property, for use by the appellant as separate space away from the main house for a medical condition. The appellant refers to case law¹ which highlights that the use of an outbuilding in the curtilage of an existing dwellinghouse for residential purposes does not involve a material change of use where it is used in conjunction with the main dwelling. Given this, it is necessary to consider the planning unit and whether an additional planning unit has been created by the alleged change of use of the garage.
7. From the evidence before me, there is a functional linkage between the host property at 120 Slough Road and the garage. Both sites share a garden area, and the properties are under the same ownership, and whilst physically separate and distinct, could be occupied for similar and related purposes. However, I have been presented with no information in respect to whether utilities such as electricity, gas and water are shared or are separate. Furthermore, the garage can be accessed independently from the main property through the pedestrian gate fronting Woodland Close. Whilst minor facilities are shared, on the information before me I would conclude a new planning unit has been created.
8. Given the facilities listed above the garage is capable of independent accommodation as a dwelling. *Gravesham*² is the lead case on defining a “dwelling.” The Gravesham case found the distinctive characteristic of a dwellinghouse was its ability to afford to those who used it, the facilities required for a day to day private domestic existence. Given the facilities available within the building, the garage is certainly capable of this.
9. The Council have also supplied information in the form of an AirBnB webpage³ which highlights that the garage has been used for lets, with the details showing three separate reviews from independent occupiers. The appellants indicate that they were unaware the garage was being used in this manner, as this venture had been undertaken by another family member without their knowledge. The appellants indicate that this use was ceased on discovery. Nevertheless, the fact that the garage had the ability to be rented out privately, provides further credence that the unit is capable of day to day private domestic existence, thus would meet the Gravesham test.
10. From the evidence it appears that the garage had all the facilities required for day to day living and has been used as a self-contained dwelling. Overall, on the balance of probability the matters alleged in the notice, namely “the material change of use of the former garage to a dwelling” has occurred as a matter of fact. Therefore, I must conclude on the evidence before me that the breach has occurred and so the appeal under ground (b) must fail.

¹ *Uttlesford DC v SSE & White* [1992] JPL 171

² *Gravesham BC v SSE & O'Brien* [1982] 47 P&CR 142; [1983] JPL 307

³ Councils Statement of Case – Appendix 6

Appeal on ground (c)

11. An appeal on ground (c) is that those matters (if they occurred) do not constitute a breach of planning control. As with the ground (b) appeal, the onus of proof is firmly on the appellant to make their case, on the balance of probabilities.
12. The appellant again alleges that the use is incidental to the main property, thus would not require planning permission. The appellant considers the use would benefit as “permitted development” under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015.
13. I found above, on the balance of probabilities, that the garage was not considered incidental to the main house and was used as a self-contained dwelling. This resulted in the creation of a separate planning unit and was a material change of use. Furthermore, I have been presented with no evidence in the form of a planning permission or Lawful Development Certificate that the garage was converted lawfully to a self-contained dwelling.
14. Since the use of the garage as a self-contained dwelling is development for which planning permission is required and no planning permission has been obtained, the appeal on ground (c) does not therefore succeed.

Other Matters

15. I have had due regard to the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED) under the Equality Act 2010. One of the residents has a protected characteristic for the purposes of the PSED. Article 8 of the HRA requires that decisions ensure respect for private and family life and the home. In reaching my decision, I have kept these interests at the forefront of my mind. However, these are qualified rights, and interference may be justified where in the public interest. The concept of proportionality is key.
16. The appellant currently resides at the main property at 120 Slough Lane, using the garage intermittently as a separate space away from the main house. The use of the garage would assist the appellant in their day to day requirements. Consequently, I have no doubt that the use of the garage as a space away from the main dwelling would improve the appellant’s quality of life.
17. I have carefully considered the appellants’ circumstances and acknowledge the requirement for such a space. However, I have limited evidence of whether the appellant has explored options to find more suitable accommodation in terms of the adaptability of the main property to meet their needs. Consequently, it has not been demonstrated that they cannot be met by other means, and I have apportioned this moderate weight.

Conclusion

18. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Robert Naylor

INSPECTOR