



Appeal Decision

Site visit made on 18 August 2026

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 August 2026

Appeal Ref: APP/W5780/C/24/3353024

825 Eastern Avenue, Ilford IG2 7RZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr J Bath against an enforcement notice issued by the Council of the London Borough of Redbridge.
 - The notice was issued on 5 September 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised construction of an outbuilding and material change of use of the outbuilding to use as a self-contained unit of residential accommodation.
 - The requirements of the notice are:
 - (i) Cease the use as separate residential use; and
 - (ii) Remove the rear outbuilding in its entirety; and
 - (iii) Clear all debris from site.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the ground set out in section 174(2)(b) 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 and varied by:
 - 1) The deletion of the text from section three and its substitution with: "Without planning permission the erection of an outbuilding for use as a self-contained unit of residential accommodation".
 - 2) The deletion of requirement (i) from section five and its substitution with the following requirement: "(i) Cease the use of the outbuilding as a self-contained unit of residential accommodation".
2. Subject to the correction and variation, the appeal is dismissed and the enforcement notice is upheld.

The appeal on ground (b)

3. An appeal on ground (b) is a claim that the matters stated in the enforcement notice (which may give rise to the alleged breach of planning control) have not occurred as a matter of fact. The burden of proof is on the appellant, and the relevant test is the 'balance of probabilities.'
4. The question is whether the breach had occurred by the date of issue of the enforcement notice. If the alleged use had occurred, an appeal on ground (b) cannot succeed simply on the basis that the use had ceased.
5. There is no dispute that an outbuilding has been erected. The appellant's case is that the outbuilding is used as a games room, ancillary to the main dwellinghouse.

6. At my visit I saw that the outbuilding contains four rooms, one of which is a bathroom. There were sofas in one room, and another contained various items of furniture. There was no kitchen, but close to the rear door was a boiler on the wall and pipes coming out of the wall, probably drainage for a sink. There is both a front and rear door to the outbuilding such that it could be accessed from the alley at the rear of the property.
7. The Council first received a complaint/s regarding the alleged residential use of the outbuilding in June 2023; it appears based on the Council's submissions and third-party comments that this was soon after the outbuilding had been erected.
8. Following the complaint/s, the Council visited and found the outbuilding was unoccupied but stated that a bathroom and fittings for a kitchen had been removed. This seems unlikely however, since the photograph in their appeal statement shows the bathroom, I saw. It is more probable that at the time of the Council's first visit, the bathroom and kitchen had not yet been installed.
9. Photographs received by the Council in August 2024 show the rear door to the outbuilding open and a person/s entering and another shows a person inside the outbuilding, possibly washing up at a sink. Laundry is also seen hung over the boundary wall and fence and in the rear alley. Based on the scale and layout of the outbuilding, together with my observations and the submitted photographs, it seems likely, that the outbuilding has been occupied residentially. This is also supported by third party representations from surrounding occupiers.
10. In this case the Council alleged operational development, and a material change of use. However, there is no suggestion nor evidence that the outbuilding was first erected and used for some other purpose, and there was a subsequent material change of use to use for self-contained residential accommodation.
11. It appears, based on the submissions, and the balance of probabilities, that the outbuilding was erected for that purpose and the development that has taken place is the erection of an outbuilding for use as a self-contained unit of residential accommodation. The allegation can be corrected, and requirements varied accordingly, without injustice, since this neither enlarges nor reduces the scope of the Notice.
12. As already stated, when making an appeal on legal grounds, the burden of proof rests with the appellant. In the absence of substantive explanation or evidence about the nature of the alleged ancillary use, the appellant has not discharged the burden of proof. It seems more likely than not, that the outbuilding was built and used as a self-contained unit of residential accommodation. The appeal on ground (b) fails.

Conclusion

13. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and variations.

Felicity Thompson

INSPECTOR