SLOUGH BOROUGH COUNCIL

REPORT TO: PLANNING COMMITTEE **DATE: July 2024**

PART 1

FOR INFORMATION

Planning Appeal Decisions

Set out below are summaries of the appeal decisions received recently from the Planning Inspectorate on appeals against the Council's decisions. Copies of the full decision letters are available from the Members Support Section on request. These decisions are also monitored in the Quarterly Performance Report and Annual Review.

WARD(S) ALL

Ref	Appeal	Decision
APP/J0350/W/23/3334720	36, Blenheim Road, Slough, SL3 7NJ Retrospective application for a detached garage and rear and side dormers and construction of a single storey rear extension The determination of this application was not made by the LPA within the statutory 8 week period, and the applicant exercised his right to appeal against non-determination. The proposal was generally acceptable, and the LPA would have granted planning permission subject to conditions. The appeal statement provided by the LPA confirmed that planning permission should be granted, with recommended conditions, including restrictions on the use of the garage for motor vehicles related to the occupier and visitors; the Planning Inspector saw no reason that planning permission should not be granted, and included the recommended conditions.	Appeal Granted 18th June 2024
APP/J0350/W/24/3336245	77, Harrow Road, Slough, SL3 8SH Removal of condition 4 (Removal of Permitted Development Rights) of planning permission P/17249/002 dated 01/06/2022 The appeal relates to planning permission Ref P/17249/002, dated 1 June 2022 the construction of a part single, part double storey rear extension to no.77 Harrow Road and construction of 1 no 3 bedroom house adjacent to no 77 Harrow Road. Condition 4 of this permission restricts permitted development rights for including extensions to the permitted house and no buildings or enclosures to be erected, constructed or placed on the site. The reason given for the condition is: The garden(s) are considered to be only just adequate for the amenity area appropriate for houses of the size proposed. It would be too small to accommodate future development(s) which would otherwise be deemed to be permitted by the provision of the above order in accordance with Policy H14 of the Local Plan for Slough 2004.	Appeal Granted 19th June 2024

	The main issue is whether the retention of condition number 4 is necessary to protect the living conditions of the occupants of the newly constructed house with regard to the provision of adequate outside garden space (Policy H14 Local Plan 2004). The Inspector concludes that "The rear garden area is shallow and due to the parking spaces to the rear, it is of a modest size. However, I observed that the garden serving the dwelling is reasonable for the size of the house as it has an attractive front garden which looks out onto a central green and therefore overall, the quality of outside space is good. Moreover, the outside garden area remains compatible in size to the garden areas of other houses in the vicinity. As a result, I am satisfied that the existing garden areas serving No 77a is appropriate." The garden is 31sqm which does not meet guidance of the RESPD 2010. The Inspector considered that the RESPD 2010 is not fully relevant to a new dwelling, and considers that whilst the existing garden is modest in size, it is appropriate in accordance with Policy H14 of the Local Plan. Given that the Inspector considers that the existing garden is an appropriate size, the Inspector is not persuaded that it is necessary to restrict permitted development rights. The Inspector also refers to a previous appeal for the site where the Inspector did not limit permitted development rights.	
APP/J0350/C/23/3320711	4 Park Lane, Slough, SL3 7PF Unauthorised realignment of the roof planes, construction of hip to gable extensions and dormer extension	Appeal Dismissed 8th July 2024
APP/J0350/D/24/3336384	4 Park Lane, Slough, SL3 7PF Retrospective application for a hip to gable roof conversion including a rear dormer and 4 x skylights at the front, replacing the roof tiles with grey tiles, removing the chimney heads and lowering the rooftop ridge	Appeal Dismissed 8th July 2024
APP/J0350/C/23/3317332	23 Kennett Road, Slough, SL3 8EQ Without planning permission, the material change of use of the outbuilding for use as a self-contained unit of residential accommodation and facilitating works.	Appeal Granted 12th July 2024
APP/J0350/X/23/3318353	107 Blunden Drive, Slough, SL3 8WQ Lawful development certificate for an existing outbuilding to be used as storage	Appeal Dismissed 15th July 2024

APP/J0350/C/23/3324649	107 Blunden Drive, Slough, SL3 8WQ Without planning permission the development of an unauthorised side extension and the erection of fencing.	Appeal Dismissed 15th July 2024
APP/J0350/C/22/3313935	1, Quinbrookes, Slough, SL2 5RX Without planning permission, the erection of a breeze-block outbuilding with attached associated wooden and metal structures and its use within the residential curtilage of the Land for Commercial use for the storage, sale and breeding of pigeons and pigeon food and the erection of a timber/plastic upvc additional single story side extension onto an existing side extension to the house. This appeal decision relates to an enforcement notice issued by the Council alleging that there had been a breach of planning control, namely “without planning permission, the material change of use of the outbuilding for use as a self-contained unit of residential accommodation and facilitating works.” The appeal was allowed with the Inspector concluding that there had not been a breach of planning control as a matter of fact. The enforcement notice was therefore quashed.	Appeal Dismissed/varied 15th July 2024

The Planning Inspectorate

Appeal Decision

Site visit made on 14 May 2024

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2024

Appeal Ref: APP/J0350/W/23/3334720
36 Blenheim Road, Slough SL3 7NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr Prakash Kumar against Slough Borough Council.
- The application Ref is P/16003/003.
- The development proposed is described as dormers, detached garage and single storey rear extension.

Decision

1. The appeal is allowed and planning permission is granted for dormers, detached garage and single storey rear extension at 36 Blenheim Road, Slough SL3 7NJ in accordance with the terms of the application, Ref P/16003/003, subject to the following conditions:

   1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan, 1185-B, 1185-C, 1185-D, 1185-E, 1185-F and 1185-G.

   2) Notwithstanding the terms and provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order), the garage shall be kept available at all times for the parking of motor vehicles by the occupants of the dwellinghouse and their visitors and for no other purpose.

Procedural Matters, Background and Reasons

2. The above description of development is taken from the application form, albeit I have removed any words which are not acts of development. The dormers and detached garage were in situ at the time of my site visit. I have dealt with the appeal on the basis that permission is being sought retrospectively for these structures. The single storey rear extension is yet to be constructed and I have considered this accordingly.

3. The Council failed to determine the planning application within the prescribed period. As such, there is no decision notice. However, the Council's appeal statement sets out that the officer recommendation would have been to grant permission, subject to conditions, had the Council determined the planning application.

4. Assessing various matters relevant to the appeal proposal, the Council's appeal statement also indicates that the proposed development accords with the saved policies of the Local Plan for Slough 2004, the Slough Local Development Framework Core Strategy 2006-2026 Development Plan Document 2008 and

with the Residential Extension Guidelines Supplementary Planning Document 2010. My assessment of the submitted evidence and site visit observations do not lead me to a different conclusion.

Conditions

5. I have considered the Council's suggested planning conditions in light of the Framework and Planning Practice Guidance and amended these where necessary for clarity.

6. As part of the development has already taken place, the standard time limit condition is not necessary. In the interests of certainty, and because the single storey extension has not yet been delivered, a condition specifying the approved plans is necessary. To ensure that adequate parking provision is available on site, a condition securing the garage to be available for off street parking at all times is necessary.

7. The Council suggests a condition removing permitted development rights for the insertion of side facing windows. Bearing in mind the limitations of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in terms of any upper-floor window located in a wall or roof slope forming a side elevation, I have not been presented with any compelling evidence that the site circumstances are such to justify the removal of these permitted development rights to safeguard the living conditions of the occupiers of the adjoining properties. Further, even if windows were to be inserted within the flank elevations of the rear extension, I find it unlikely that they would result in loss of privacy. As such, in this instance, I am not persuaded that such a condition would be necessary.

Conclusion

8. For the above reasons, and having had regard to all other matters raised, I conclude that the proposed development accords with the development plan. With no material considerations indicating that the proposed development should be determined otherwise than in accordance with it, the appeal should be allowed.

P Terceiro

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 22 May 2024

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 18 June 2024

Appeal Ref: APP/J0350/W/24/3336245
77 Harrow Road, Slough SL3 8SH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Amrik Singh against the decision of Slough Borough Council.
- The application Ref is P/17249/011.
- The application sought planning permission for construction of a part single, part double storey rear extension to no.77 Harrow Road and construction of 1 no 3 bedroom house adjacent to no 77 Harrow Road without complying with a condition attached to planning permission Ref P/17249/002, dated 1 June 2022.
- The condition in dispute is No 4 which states that: Notwithstanding the terms of the Town & Country Planning General Permitted Development Order 1995 (or any order revoking and re-enacting that Order), Schedule 2, Part 1, Classes A,B,C,D,E & F, no extensions to the house herby permitted or buildings or enclosures shall be erected constructed or placed on the site without the express permission of the Local Planning Authority.
- The reason given for the condition is: The garden(s) are considered to be only just adequate for the amenity area appropriate for houses of the size proposed. It would be too small to accommodate future development(s) which would otherwise be deemed to be permitted by the provision of the above order in accordance with Policy H14 of the Local Plan for Slough 2004.

Decision

1. The appeal is allowed and planning permission is granted for the construction of a part single, part double storey rear extension to no.77 Harrow Road and construction of 1 no 3 bedroom house adjacent to no 77 Harrow Road at 77 Harrow Road, Slough SL3 8SH in accordance with the application Ref P/17249/011, without compliance with condition number 4 previously imposed on planning permission Ref P/17249/002 dated 1 June 2022 and subject to the following condition:

   1) The development hereby permitted shall be carried out in accordance with drawing nos PL/ASB/1, PL/ASB/2 and PL/ASB/3.

Background

2. Planning permission for the part single, part double storey extension to 77 Harrow Road (No 77) and construction of an adjacent 3-bedroom house known as 77a Harrow Road (No 77a) included a condition removing permitted rights for certain development including extensions to the permitted house and no buildings or enclosures to be erected, constructed or placed on the site.

3. It is common ground between the parties that the condition does not restrict the permitted development rights for the existing house that has been extended but does restrict the permitted developments for the adjacent newly constructed 3-bedroom house. Given the wording of the condition which refers to "the house hereby permitted", I agree with that analysis and have determined the appeal on that basis.

4. The development has already taken place at the time of the site visit. There are some differences between the development constructed on site and the approved plans. These include a first-floor front extension to No 77, the parking areas to the rear of the appeal site and an access and structure in the rear garden area of No 77a. For the avoidance of doubt, I have determined the appeal based on the approved plans.

Main Issue

5. The main issue is whether the retention of condition number 4 is necessary to protect the living conditions of the occupants of the newly constructed house with regard to the provision of adequate outside garden space.

Reasons

6. The appeal site comprises a two storey, former end of terrace property at No 77 which has been extended with the additional of a further attached dwelling at No 77a.

7. Saved Policy H14 of the adopted Slough Local Plan 2004 (LP) Local Plan for Slough 2004 sets out that the appropriate level of amenity space will be determined through several criteria, including the type and size of dwelling, the quality of the proposed space and the character of the surrounding area.

8. As outlined above, there are some differences between the development constructed on site and the approved plans and as the appellant has not asked for any changes to the approved scheme, only the removal of condition 4, I have determined the appeal on the basis of the approved plans.

9. This shows that the rear garden area is shallow and due to the parking spaces to the rear, it is of a modest size. However, I observed that the garden serving the dwelling is reasonable for the size of the house as it has an attractive front garden which looks out onto a central green and therefore overall, the quality of outside space is good. Moreover, the outside garden area remains compatible in size to the garden areas of other houses in the vicinity. As a result, I am satisfied that the existing garden areas serving No 77a is appropriate.

10. The Council highlight that the garden area of No 77a, which measures 31 square metres does not meet the guidance contained within the Residential Extensions Guidelines Supplementary Planning Document adopted January 2010 (SPD) which sets out that rear extensions shall not be permitted unless the usable retained rear garden complies with minimum guidelines which for a three bedroom house should have a depth of 9 metres or if that depth cannot be achieved, a relaxation of the standard may be allowed provided the garden size exceeds 50 square metres.

11. Although No 77a is a new dwelling and consequently the SPD is not fully relevant in the determination of this appeal, it does indicate the size of garden

the Council considers adequate for the size of No 77a. However, as outlined above, although I consider the existing garden is modest in size, I consider that it is of an appropriate size in accordance with Policy H14 of the LP.

12. Given the modest size of the garden, I have considered whether condition 4 is necessary to protect the living conditions of the occupants of No 77a. The Planning Policy Guidance – Use of Planning Conditions (PPG) is clear that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity.

13. Given that I consider that the existing garden is an appropriate size, I am not persuaded that it is necessary to restrict permitted development rights as there are already safeguards included with the Town & Country Planning General Permitted Development Order 1995 (GPDO), such as under Class A and Class E where development is not permitted if the total area of ground covered by buildings etc within the curtilage of the dwellinghouse would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse). Such safeguards would ensure that the outside garden area would not be reduced to an unacceptable size and consequently the removal condition 4 would not unacceptably harm the living conditions of the occupants of No 77a.

14. In reaching that view I have had regard to a previous appeal decision[1] that relates to the same site. That decision post-dates the planning permission that I am dealing with and involved a scheme very similar to the one before me, except it also included a single storey front extension to No 77, which outlined above has been constructed. Of particular relevance is that the garden area of No 77a shown on the approved plans that were granted by the previous appeal decision is largely the same as the approved plans subject of this appeal. Moreover, what has been built at the appeal site more closely matches the scheme granted permission by the previous Inspector as it includes the single storey extension which is not included on the approved plans subject of this appeal.

15. Importantly, the previous Inspector did not limit permitted development rights in that case. Consequently, the appellant already has planning permission for a very similar, but larger scheme which more accurately reflects what has been built on site which does not restrict their permitted development rights. This reinforces my view that it would not be reasonable to retain such a restriction as it would serve no practical purpose.

16. I therefore conclude that the retention of condition 4 is not necessary as, for the reasons set out above, the removal of the condition which restricts certain permitted development rights would not result in any material harm and would not conflict with Policy H14 of the LP.

Other Matters

17. The Council have set out their view that the appellant still needs to submit a retrospective application to realign what has been built with what has been granted planning permission. However, I have determined this appeal based on the approved plans. Any inconsistencies between what has been built with the approved plans would have to be pursued by the Council in the normal way.

[1] APP/J0350/W/23/3322820

However, any such discrepancies have not had a bearing on the determination of this appeal.

Conditions

18. By allowing this appeal a new planning permission is created. The guidance in the PPG makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect.

19. As set out above, there is a previous appeal decision which more closely matches what has been built at the appeal site including the single storey front extension at No 77. Given that the previous Inspector only imposed a condition to secure compliance with the approved plans, I do not consider it necessary or reasonable to impose any other conditions as they would serve no material purpose and given the existence of other planning permission would be hard to enforce. On that basis, for the avoidance of doubt I shall also only impose a condition to secure compliance with the approved plans.

Conclusion

20. For the reasons given above I conclude that overall, the proposed removal of a restriction on permitted development rights at the appeal site would not conflict with the development plan and therefore the appeal should be allowed. I will therefore grant a new planning permission which does not restrict such rights but subject to the specified planning condition.

S Rawle

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 29 May 2024

by Richard S Jones BA (Hons), BTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2024

Appeal Ref: APP/J0350/C/23/3317332
Land at 23 Kennett Road, Slough, SL3 8EQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Bahadur Aujla against an enforcement notice issued by Slough Borough Council.
- The notice was issued on 8 February 2023.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the outbuilding for use as a self-contained unit of residential accommodation and facilitating works.
- The requirements of the notice are to:
  - Cease the unauthorised use of the outbuilding as a self-contained unit of residential accommodation;
  - Remove the kitchen and shower room from the outbuilding;
  - Remove the internal walls incorporating the kitchen and the shower room from the outbuilding;
  - Remove all plumbing, boiler and associated pipework in connection to the kitchen and shower room within the outbuilding; and
  - Remove from the Land all materials, rubbish, debris, plant and machinery resulting from compliance with the above requirements.
- The period for compliance with the requirements is six 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 (as amended).

Decision

1. The appeal is allowed and the enforcement notice is quashed.

Preliminary Matters

2. I note that the Council served a second enforcement notice on 8 February 2023, alleging a breach of planning control arising from a material change of use of the land from Class C3 residential use to a mixed residential and commercial use. I also note the representation received from the neighbour at No 21 Kennett Road stating that there has been no commercial use at the appeal property, or noise nuisance, general disturbance or pollution.

3. Having regard to the appellant's case, the Council also seeks to highlight further breaches of planning control at the appeal site.

4. However, the above matters are beyond the scope of this appeal, which relates to the alleged material change of use of the outbuilding for use as a self-contained unit of residential accommodation and facilitating works.

The Appeal on Ground (b)

5. A ground (b) appeal is that the breach of control alleged in the enforcement notice has not occurred as a matter of fact. The onus lies with the appellant to make his case on the balance of probabilities.

6. The appellant disputes that the outbuilding has been used as a self-contained dwelling as alleged and argues that its use is wholly ancillary to the use of the main house. He explains that he has owned the property since 2000 and that the outbuilding was originally converted into ancillary accommodation in 2003, primarily for use as a gym and office space. He states that a shower room and a kitchen were installed in 2003, with the former being used to cook stronger smelling food, so that the smell would not affect the main house.

7. The appellant further states that in 2012 he changed the flat roof of the outbuilding to a pitched roof and constructed an extension which connects the outbuilding to the main house. That, he says is a separate space, with no direct access into the outbuilding. As part of the 2012 works, the appellant says he replaced the windows and doors in the outbuilding and upgraded the kitchen and shower room.

8. The appellant states that he removed the kitchen following investigation by the Council's enforcement team in March 2017 regarding an alleged breach arising from the use of the outbuilding as a separate dwelling. He says he immediately reinstalled the kitchen in June 2017, following the Council's email confirmation in May 2017 that the enforcement file had been closed. Again, the reason for doing so was that he wanted a 'spice kitchen' to avoid cooking certain foods within the main house.

9. The Council's photographs, which are dated prior to issuing the enforcement notice, show the outbuilding to have a fully equipped kitchen, with sink, oven and hob and extractor hood above, a microwave, kettle, toaster, fitted cupboards, fridge freezer and washing machine. The photographs also show a bathroom with shower, toilet, sink and fitted cupboards. There is also one bedroom with a double bed, fitted wardrobes, chair and trolley and another room with a television, single bed, shelving, fitted wardrobes and table and chairs.

10. Those photographs therefore clearly show that prior to issuing the enforcement notice, the outbuilding contained all of the facilities required for day-to-day private domestic existence. However, just because it had the characteristics of a dwellinghouse, it does not necessarily follow that it was being used as a self-contained residential unit.

11. The appellant argues that the outbuilding has only ever been used for ancillary residential uses such as storage, office, gym, a hangout space and as a spice kitchen. He says that on occasion it has been used as guest accommodation for visiting family and a member of staff, both on an ad-hoc, infrequent basis.

12. S55(2)(d) of the 1990 Act provides that the use of land or buildings within the curtilage of the dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such is not development.

13. Dealing firstly with the issue of curtilage, the main house physically adjoins the storage building which runs alongside the boundary to No 21, which in turn adjoins the outbuilding. Those three elements combine to create a courtyard

type arrangement within the enclosed rear garden of the appeal site. The sole entrance and only window to the outbuilding faces onto that courtyard and the rear of the main dwelling. The outbuilding therefore has a clear intimate association with the main dwelling and forms part of its curtilage.

14. The essential feature of an incidental use is that it should have a functional relationship with the primary use, and the relationship should be one that is normally found. It is implicit in the requirement for there to be some functional relationship that an incidental use will not be the same as the primary use.

15. A fully equipped bathroom would usually be comprised within the everyday living facilities of the dwelling, and thus be part of the primary living accommodation. Nevertheless, such a facility could be regarded as part of an incidental use, such as a gym, if integrated within it and subservient to it. However, there is nothing in the Council's photographs to indicate that any part of the outbuilding was being used as a gym and no evidence is provided by the appellant to that end either.

16. Similarly, whilst an office and storage use are clearly capable of being incidental type uses which are normally found, there is again no evidence of such activities taking place in the Council's photographs and the appellant has provided no evidence to show that the outbuilding was being used for those purposes[1].

17. Obviously, a fully fitted kitchen would also be usually comprised within the everyday living facilities of the main dwelling. The Council's photographs show everyday type food items within the cupboards as well as mugs, plates, bowls and pans. There also appeared to be fresh fruit on the worktop. Pictures of the inside of the fridge also show everyday type items, including fresh foods such as eggs and milk. They also appear to show frozen food in the freezer.

18. Representation from the occupant at No 21 states that he moved into his property in 2013 and that since that time the outbuilding has been used as a spice kitchen (and gym). However, there is nothing in those photographs to indicate a specialist type of 'spice kitchen' as argued by the appellant (or use of any part of the outbuilding as a gym).

19. The type of food and drink items in the cupboards and fridge freezer, the two types of capsules for washing clothes on the worktop, the toiletries in the bedrooms and bathroom, the plugged-in television, the footwear on the floor, the newspapers on top of the table, the clothes drying on the radiator and what looks like pyjama bottoms on one of the beds, all point to a very high likelihood that the outbuilding was being used for residential purposes at time when the Council took its photographs. No explanation is provided by the appellant of who that was, such as family member or employee. The net curtains in the kitchen window also appear to indicate that person(s) using the outbuilding were looking to protect their privacy.

20. All aspects combined, it is more likely than not that the outbuilding was being used for residential purposes, rather than for purposes incidental to the enjoyment of the main dwellinghouse.

[1] At the time of my site visit, there was a running machine in one of the rooms as well as items being stored. However, s174(2)(b) of the 1990 Act is worded in the past tense and the question is whether the breach had occurred by the date of issue of the enforcement notice.

21. In such cases, the residential use of the outbuilding may be regarded as part and parcel of (rather than incidental to) the use of the dwellinghouse, even if the outbuilding contains the facilities required for use as a self-contained residential unit, as was the case in *Uttlesford DC*[2]. However, a material change of use would have arisen if the main dwelling and outbuilding were sub-divided to form separate planning units. In such cases it is necessary to assess the physical and functional links between the use of the outbuilding and main dwelling and consider whether a separate planning unit has been created as a matter of fact and degree.

22. I have already found that the outbuilding falls within the curtilage of the main dwelling. It does not have any dedicated garden space or dedicated enclosure of its own. It is visually and functionally focused on both the courtyard and the main dwelling. The courtyard space is shared with the main dwelling and provides a relatively small separation between the two buildings.

23. I saw that the outbuilding has its own front door and can be accessed without having to go through the main dwelling, either via a side gate or the side boundary vehicular access to the rear hardstanding area. However, those access points also serve the main house. The appellant has not therefore sought to provide a dedicated access to the outbuilding.

24. To use the side gate would involve walking directly across the rear elevation of the main dwelling, so its use by anyone unrelated to the appellant and his family would compromise the enjoyment and privacy of that dwelling and the rear courtyard space. The use of the vehicular access point would be less intrusive but would still involve walking into the courtyard space which has an intimate association with the dwelling.

25. The above therefore supports the appellant's position that it has never been the intention to create a separate living unit from the main dwelling. Moreover, he explains that the outbuilding does not have a separate address and is not served by its own separate services or utility meters, and no evidence is provided from the Council which contradicts that.

26. As noted, the appellant acknowledges that the outbuilding is used by a member of staff, employed by him, but as a guest and on an infrequent ad-hoc basis. There is very little evidence to suggest it is anything more than that, and certainly not to an extent which points towards the subdivision of the planning unit and the creation of a separate dwelling. I have no other evidence which indicates use by someone unconnected to the family's occupation of the main dwelling.

27. I note the representation from the occupant at No 21 that there has not been a material change of use of the outbuilding for use as a self-contained unit of residential accommodation. However, his knowledge of the outbuilding is not explained and I have already found that it is unlikely that it was used as a gym or some form of dedicated spice kitchen, as indicated by the neighbour, at the time the enforcement notice was issued. In the circumstances, the representation attracts limited weight.

28. Nevertheless, the above described physical and functional relationships do not point towards the creation of a separate planning unit, as a matter of fact and

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

degree. On the balance of probabilities, the residential use of the outbuilding was part and parcel of the use of the main dwellinghouse.

29. I therefore find, on the balance of probabilities, that at the time the enforcement notice was issued, the material change of use of the outbuilding to a separate self-contained residential unit had not occurred. The appeal on ground (b) succeeds.

Conclusion

30. For the reasons given above, I conclude that the appeal should succeed on ground (b). The enforcement notice will be quashed.

31. In these circumstances, the appeal on ground (f) does not fall to be considered.

Richard S Jones

INSPECTOR