



Appeal Decision

Site visit made on 9 September 2025

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29th October 2025

Appeal Ref: APP/B5480/C/24/3346483

The land known as 19 The Parade, Colchester Road (Flats 1, 2 and 3, rear of), Romford RM3 0AQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The appeal is made by Mr Jack Green of Osterton Ltd against an enforcement notice issued by the Council of the London Borough of Havering.
 - The notice was issued on 14 June 2024.
 - The breach of planning control as alleged in the notice is Without planning permission, the material change of use of the building to the rear into three separate residential dwellings.
 - The requirements of the notice are: 1. Cease the use of the rear building (partly shown in Appendix 1) as self contained flats; and 2. Remove from the rear building all kitchen units, toilets, washing facilities and kitchen and cooking appliances; and 3. Remove any separate electric or gas metres within the building to the rear; and 4. Remove all debris, rubbish or other materials accumulated as a result of taking steps 1 – 3 above.
 - The period for compliance with the requirements is three months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) and (g) of the Act.
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Decision

1. It is directed that the enforcement notice is varied by the deletion of the text 'THREE MONTHS' at section 6 of the enforcement notice and the substitution of the text 'six months'. Subject to the variation, the appeal is dismissed and the enforcement notice is upheld.

The appeal under ground (c)

2. To succeed under this ground of appeal the appellant needs to show, on the balance of probabilities, that the material change of use of the building at the rear of the site into three dwellings (the MCU) did not constitute a breach of planning control.
3. The building comprises three flats, which have been referred to by various titles. I shall refer to them as Units 1, 2, and 3, as identified on the plans submitted with the application for prior approval referred to below.
4. It is not disputed that the building was formerly used as an office, or that the MCU comprised development requiring planning permission. Article 3(1) and Class O of Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) grant planning permission for the change of use of a building from an office to dwellings, subject to limitations and conditions. It is disputed whether the MCU benefits from that planning permission.

5. Condition O.2.(1) of Class O states that development under Class O is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to various criteria, and that the provisions of paragraph W of Part 3 apply in relation to such an application. Condition O.2.(2)(a) of Class O requires the development to be completed within three years of the date prior approval was granted.
6. Prior approval¹ was granted for the MCU in accordance with Condition O.2.(1) and paragraph W on 27 March 2020. It was at that point that planning permission for the MCU crystallised. Paragraph W.(12) required the development to be carried out in accordance with the details approved/submitted. In this case, those details include two sets of proposed floor plans: the first set² show one entrance door and two windows to Unit 1, and no entrance doors or windows to Units 2 and 3; the second set³ have been annotated to show the position of a 'future' window to Unit 1, and the positions of 'future' entrance doors and windows to Units 2 and 3.
7. Neither of the above sets of plans is referred to in the Council's prior approval decision notice, as no approved/submitted details are listed. However, there is no dispute that the second set of plans showing 'future' entrance doors and windows were submitted in respect of that application before prior approval was granted, and that they form part of the application documents on the Council's website.
8. Existing ground floor plans submitted with the application for prior approval show the building had two window openings and one door on its long east elevation, a door on its north elevation, and a window on a short east elevation prior to the MCU. However, a photograph dated 15 May 2018 shows two additional windows were also present on the long east elevation before prior approval was sought. A plan of the 'pre-existing side 2 elevation'⁴ is consistent with the 2018 photograph, which, on the balance of probabilities, also shows that the entrance door to Unit 2 was not in place when prior approval was sought.
9. The entrance doors and windows currently in place are consistent with the positions of the pre-existing windows and doors and the 'future' windows and doors annotated on the plans referred to above. Notwithstanding what the relevant plans show, the GPDO did not grant planning permission for any external alterations to the building, such as the entrance door to Unit 2. It is on this basis that the Council claims the MCU 'was not implemented in accordance with the approved plans'. The Council has not elaborated or provided detailed evidence to support this claim, and it has not disputed the timeline of events set out in the appellant's Statement of Case, which is supported by various documents. Furthermore, the Council has not responded to the appellant's claim that the entrance door to Unit 2 was installed after the MCU took place.
10. To that end, it is claimed that works commenced to implement the planning permission in May 2022 and that internal works were completed to create the three flats on 2 January 2023. This is supported to some extent by Energy Performance Certificates (EPCs) for Unit 1 and Unit 3 dated 18 January 2023 and Electrical

¹ The Council's ref: J0005.20

² Dwg No U-PP – PP001, Rev A

³ Dwg No U-PP – PP001

⁴ Dwg. No. TPCR.19.101, Rev: B, dated 3 January 2023 (Page 3 of the appellant's Appendix 5)

Installation Condition Reports (EICRs) referring to sockets, lights, smoke alarms, cookers and water heaters for Unit 1 and Unit 3 dated 17 January 2023.

11. Furthermore, it is argued that an entrance door was fitted to Unit 2 and sealant was added to windows on 26 January 2023, with all external works being completed on 27 January 2023. Various photographs attached to emails dated 21 February 2023 show kitchens and internal finishes complete to all three flats on that date. A Final Certificate in respect of Building Regulations, referring to the conversion of offices into three flats, was issued on 15 March 2023, which followed an Initial Notice dated 13 April 2022. The undisputed evidence therefore shows, on the balance of probabilities, that the MCU took place at some point between 26 January and 15 March 2023. The MCU had not taken place earlier, as Unit 2 was not a dwelling until its entrance door was installed.
12. Article 3(5)(a) of the GPDO states that the planning permission granted by Schedule 2 does not apply if the building operations involved in the construction of the existing building are unlawful. Article 2 of the GPDO confirms that in this context 'building' includes any part of a building. Case law⁵ has confirmed that Article 3(5)(a) applies to the circumstances in which a building has been physically altered without planning permission following a grant of prior approval for a material change of use. In *RSBS Developments Ltd*, Lang J stated that 'the principle of excluding permitted development rights where the "host" development is unlawful is well-established'.
13. The installation of the entrance door to Unit 2 was carried out after prior approval was granted, but the Council has not disputed, or provided any evidence to lead me to doubt, the appellant's claims that the material change of use of the parts of the building comprising Units 1 and 3 into dwellings took place before any unauthorised operational development took place. I do, however, doubt the accuracy of the appellant's evidence in respect of when the material change of use of the part of the building comprising Unit 2 into a dwelling took place. This is because it has not been explained how Unit 2 could have constituted a dwelling before its entrance door was installed.
14. Without an entrance door, Unit 2 could not have been a dwelling because it would have been an inaccessible space. An inaccessible space is incapable of being lived in, and as such does not afford to anyone the facilities required for day-to-day private domestic existence which, as the courts have found, are necessary to constitute a dwelling. Furthermore, there is a notable lack of evidence relating to when Unit 2 became a dwelling, such as an EPC and EICR, despite these being present for Units 1 and 3.
15. In addition, the installation of the entrance door to Unit 2 comprised building operations which materially altered the external appearance of the building. There is no evidence before me to suggest the installation did not comprise development requiring planning permission. Therefore, and as a matter of fact and degree, the installation of the entrance door to Unit 2 comprised unlawful development. Planning permission was not granted for the entrance door to Unit 2 until 17 July 2024. Moreover, considering the effect of Article 3(5) of the GPDO, this was not a trifling matter, as has been claimed.

⁵ *RSBS Developments Ltd v Secretary of State for Housing, Communities and Local Government & Anor* [2020] EWHC 3077 (Admin); *Evans v Secretary of State for Communities and Local Government* [2015] JPL 589

16. I therefore find that the entrance door to Unit 2 was installed in breach of planning control prior to the dwelling comprising Unit 2 being created. This was after the dwellings comprising Units 1 and 3 had been created. It is therefore wrong to say that the planning permission granted by the GPDO had not been implemented, because it had crystallised and there had been a material change in the use of parts of the building to the dwellings comprising Units 1 and 3 in accordance with that permission. However, Article 3(5) of the GPDO prevented the planning permission from applying at the point the entrance door to Unit 2 was installed, on 26 January 2023.
17. Although the planning permission had been implemented, the operation of Article 3(5) and Condition O.2.(2)(a) meant that the MCU was not carried out in accordance with the planning permission granted by the GPDO. The appellant is not therefore entitled to rely on that planning permission, despite planning permission since being granted for the installation of the entrance door to Unit 2, more than three years after prior approval was granted. I am not aware of any other planning permission that the development may benefit from. In these circumstances, and as a matter of fact and degree, the MCU was unauthorised and in breach of planning control.
18. The appeal under ground (c) must therefore fail.

The appeal under ground (g)

19. To succeed under this ground of appeal the appellant needs to show that three months falls short of what should reasonably be allowed for the notice to be complied with.
20. The three flats are occupied, and their tenants would need to find alternative accommodation. Moreover, the removal of all kitchens, toilets, and washing facilities could not be carried out until those tenants have moved out, and these would be significant works. The appellant was entitled to expect success on the appeal under ground (c), and he was not obliged to evict those tenants prior to the appeal being determined.
21. In these circumstances, I find that three months falls short of what should reasonably be allowed for the notice to be complied with, and six months would be a reasonable alternative period.
22. The appeal under ground (g) therefore succeeds, and I shall vary the notice accordingly.

Conclusion

23. For the reasons given above, I conclude that the appeal should not succeed, except in respect of ground (g). I shall uphold the enforcement notice with a variation.

L Douglas

INSPECTOR