Planning Inspectorate

Appeal Decision

Site visit made on 17 January 2026

by A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr

an Inspector appointed by the Secretary of State

Decision date: 28th January 2026

Appeal Ref: APP/B5480/C/24/3349717
203 Rush Green Road, Romford RM7 0JR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the "Act").
- The appeal is made by Mr Tirath Singh against an enforcement notice issued by the Council of the London Borough of Havering.
- The enforcement notice was issued on 9 July 2024.
- The breach of planning control as alleged is the material change of use of the rear part of the ground floor to a self-contained dwelling.
- The requirements of the enforcement notice are to: (1) Cease the use of the dwelling to the ground floor rear (known as 203B Rush Green Road). (2) Remove all amenities which facilitate the use as accommodation including: (a) the shower, bath, toilet, wash hand basin; and (b) all kitchen and cooking facilities including the oven, hob, extract, kitchen cupboards and white goods; and (c) all metres and fuse boxes; and (d) Remove the internal door which leads to 203B Rush Green Road and fill it back in to form a solid wall and make good, and (3) remove all debris, rubbish or other materials accumulated as a result of taking step (1) and (2) above.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (d) and (g) of the Act. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Decision

1. It is directed that the enforcement notice be varied by the deletion of the text "three months" in section 6, time for compliance, and the substitution therefor by the following text and number "six (6) months". Subject to this variation, the appeal is dismissed, and the enforcement notice is upheld.

Ground (d)

2. The appeal site is a two-storey, mid-terrace property in commercial use at ground floor level with residential accommodation above. The latter is known as 203A. Located to the rear of the ground floor commercial unit is no 203B, which comprises a single bedroom, open plan living and dining area and bathroom, with access to amenity space to its rear. Although the office could be accessed from a shared corridor, no 203B forms a self-contained unit of accommodation. It is physically separate, has its own access and contains necessary facilities for day-to-day domestic existence.

3. Essentially, the challenge is a simple one, namely, that at the date when the notice was issued, no enforcement action could be taken in respect of no. 203B's use as a flat, due to the passage of time. The burden of proof is on the appellant, with the relevant test of the evidence being on the balance of probability. The evidence does not need to be corroborated by independent evidence to be accepted, but does need to be sufficiently precise and unambiguous, even if there is no evidence to contradict it. By way of background information, planning applications and lawful development certificate applications in relation to the same use were submitted but refused by the Council.

4. It is important to make a distinction between the terms *use as a single dwellinghouse* from what might normally be regarded *as being a single dwellinghouse* [my emphasis]. Beginning with *Gravesham*, the Courts have consistently held that the distinctive characteristic of a dwellinghouse is its ability to afford to those who use it the facilities required for day-to-day domestic existence[1]. The key message from these judgments and the findings therein serve to illustrate that with each case it is a matter of fact and degree based on the circumstances.

5. I have reviewed all the evidence submitted by the appeal parties, including the bundle of evidence submitted with previous applications. To my mind, all this information demonstrates a fundamental misunderstanding. This is because the appeal parties focus on dis/proving 203B's residential use as a self-contained flat without grappling with first principles. Having regard to well-established case law, it is first necessary to consider evidence showing when 203B became a single dwelling and when/how it was occupied and used as a single dwellinghouse without significant interruption [my emphasis]. Against that background, the appellant faces an uphill struggle.

6. The appellant, supported by his son, affirms that the space to the rear was spare. Works involved in the creation of 203B are said to have commenced on 19 July 2018. The testimony is that the work involved in the subdivision of the rear ground floor portion and the creation of no. 203B as a flat was substantially completed by 30 September 2018, which is before the relevant date - 9 July 2020. The assertion is that 203B became someone's home from 10 October 2018.

7. I have carefully considered all the submissions. However, the quantum of evidence presented does not clearly and precisely show when the physical work involved in the creation of 203B commenced and how the rear ground floor area was converted into a self-contained flat given the interconnecting door and passageway. The claim is that the conversion happened over a period of about two-months and details of white goods, tenancy agreements and gas safety checks have been submitted. None of this information supports the sworn testimony regarding the conversion work.

8. To my mind, the creation of no. 203B required significant building work and material given the internal layout and configuration: it is unclear to me when and from where that material was acquired. Usually, to support immunity claims such as this, documentary evidence in the form of invoices or receipts for building material or fittings required to create viable facilities for cooking and washing are produced. In the absence of this kind of information, it is difficult to make comparisons and establish a clear and precise timeline. Despite having an opportunity to submit relevant and supporting documentary evidence about the conversion work and when 203B became a dwelling, there is no plausible explanation as to what works were carried out, who carried them out, what was installed and sequence of events and there is a lack of contemporaneous records.

9. Given the appellant's attention to record keeping and knowledge of exact dates when certain events occurred, I am surprised by the lack of documentary evidence or detail in respect of accurate records. For example, the lack of invoices, receipts or bills is telling. This kind of detailed evidence would, and could, have shown the level and extent of the residential conversion and use. The absence of this kind of evidence makes it highly problematic to make comparisons with the nature and scale of the claimed residential use and the sequence, timings and version of the events. In my mind, this lack of detail casts significant doubt as to the veracity of the claims made in the statutory declarations. This affects the weight I attach to them.

10. The arguments in support of the appeal have been forcefully made. Nonetheless, I find that the quantum of evidence presented does not support the proposition that no. 203B afforded viable

[1] Applied: *Gravesham BC v SSE and O'Brien*, [1983] JPL 306.

facilities for day-to-day living on or before the relevant date. On the balance of probabilities, at best, the evidence is ambiguous and uncertain. My analysis of the first issue is sufficient to conclude the appeal fails. However, for completeness, I will also review the evidence about occupation and use.

11. In that context, tenancy agreements have been provided and there are letters of support and affidavits from tenants, but none of this kind of information necessarily shows occupation and use of 203B as a self-contained flat. The sworn testimony merely confirms the dates of occupation by each tenant, but there are no specific details as to how the flat was used and how much rent was paid. Bank statements with handwritten annotations have been submitted but cash payments were deposited, and it is difficult to corroborate the amounts deposited against each tenant. The appellant maintains utilities are supplied from the host property, but the tenancy agreement suggests each tenant is responsible for all charges including council tax, yet there are no specific records for taxation nor bills paid during each tenancy. In a similar vein, the gas safety checks relate to a boiler that serves the host property as well as 203B and this information does not necessarily prove occupation and use of the latter as a single dwellinghouse.

12. There is an added complexity. The appellant concedes that since 10 October 2018, there have been three gaps in the residential occupation of the ground floor flat: 11 August 2021 to 4 November 2021, 6 December 2022 to 3 February 2022, and 5 October 2023 to 19 December 2023. The claim is that these period, being less than three months, do not significantly interrupt continuous use. However, while I accept that such gaps can occur between tenancies, there is a lack of documentary evidence supporting the appellant's claim that such periods were used to re-decorate the property or advertise the property or carry out viewings to potential tenants.

13. Drawing all the above threads together and having regard to all other matters raised including case law, on the balance of probability, I find that the onus of proof has not been discharged. This is because in support of this ground of appeal, the evidence as to when the rear part of the building materially changed to a self-contained flat is insufficient, lacking in detail and ambiguous and imprecise. In addition, the evidence about continuous use is also lacking in specificity.

Ground (g)

14. The claim is that the period of compliance is too short. At the date of the notice, and during the appeal proceedings, the self-contained flat at 203B may have been occupied. Things appear to have moved on the ground since the appeal because I observed that no. 203B is currently unoccupied and there is no sign of residential use. Nevertheless, work and resource would need to be arranged, and a reasonable compromise is 6 months given the work required by the notice.

15. On the circumstances, an extended period would be reasonable. This is a proportionate response. It would strike a fair balance between the competing interests of the wider public interest and this case. I am content that there would be no violation of the rights under Article 8 of the Human Rights Act.

Overall conclusions

16. For all the above reasons and having considered all other matters raised, I conclude that the appeal against the enforcement notice should fail on ground (d). As I have varied the period of compliance, ground (g) succeeds to that extent.

A U Ghafoor

INSPECTOR