



Appeal Decision

Site visit made on 9 June 2025

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date 04 July 2025

Appeal Ref: APP/J1915/C/23/3321338

The Bell Public House, 4 Town Lane, Benington, Hertfordshire SG2 7LA

- 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 Raffie Hosein (R A H Enterprises Ltd T/A The Bell pub) against an enforcement notice issued by East Hertfordshire District Council.
- The notice was issued on 4 April 2023.
- The breach of planning control as alleged in the notice is 'Without planning permission, the unauthorised material change of use from a Public House to a solely residential use'.
- The requirement of the notice is to cease the use of the public house as a solely residential property.
- The period for compliance with the requirement is: 6 months.
- The appeal was made on the ground set out in section 174(2)(b) of the Act.

Summary Decision: The appeal is dismissed and the enforcement notice is corrected then upheld.

Preliminary Matters

1. The appellant says there has been no material change of use, so no breach of planning control. This raises ground (c). Albeit in the context of ground (b) the Council has been able to consider this, as have interested parties. I am therefore satisfied there is no injustice to any party by determining the appeal on this basis. It proceeds on grounds (b) and (c) which in this case can be taken together.
2. The appellant sets out that he has sought to retain the pub in use. But there is no ground (a) deemed planning application to consider planning merits or personal circumstances. He is aggrieved that enforcement action has been taken by the Council but this is not within the remit of my decision.

Enforcement Notice

3. I have a duty to make sure the notice is in order.
4. Section 2 is directed at a planning unit defined as 'Land at The Bell Public House... edged red on the notice plan'. Whereas the alleged breach of planning control in section 3 is about material change of use from 'a Public House to a solely residential use'. I shall therefore correct section 3 and the notice plan to more precisely refer to the Public House 'as hatched blue', given that there is also other residential use on the Land in the form of two units of holiday let accommodation.
5. The notice could result in lawful resumption of the Public House and with it some living accommodation upstairs. But in section 5 the requirement to cease the use of the Public House as a 'solely residential property' is vague. It is also inconsistent with section 3 which refers to 'use' not property. Consequently, I shall correct section 5 to refer more precisely to 'independent residential use' of the Public

House so as to remedy no more than the corrected alleged breach and also correct section 3 to be consistent.

6. I am satisfied this will cause no injustice to any party.

Grounds (b) and (c)

7. For these grounds to succeed, the onus is firmly on the appellant to demonstrate, on the balance of probabilities, that in ground (b) the matters stated in the notice have not occurred as a matter of fact; and in ground (c), that if they have occurred they do not constitute a breach of planning control, for example because there is no development that requires an express grant of planning permission.
8. The appellant acquired the pub in 2014 and with his wife ran it in a conventional way, as would be recognised by any reasonable person. This included a bar and rooms downstairs in the main building for drinking or eating with food prepared in the catering kitchen. They lived in the upstairs living accommodation in this building with the rest of their family, as had previous publicans, where the appellant claims there was a kitchenette.
9. The Covid-19 national lockdown in March 2020 necessitated operational changes during this suspension of normal use and activity in the pub, with food and drink exclusively served in the beer garden or for collection. After this restriction was lifted, the appellant maintained these outside arrangements alongside, or they were replaced by, a catering service for off-site customers and events. Either way, these commercial activities are not one in the same as the pub in use terms for planning purposes. There is no apparent reason why the pub did not re-open inside to patrons in-line with Government health guidance at the time, thereafter or now.
10. There is no dining room in the living accommodation and nothing to prevent using tables and chairs downstairs in the pub for this purpose via an internal staircase. Even if that does not happen, I did not see a kitchenette upstairs at my site visit. The only apparent means to prepare and cook food for the appellant's family is therefore the catering kitchen downstairs.
11. As a result, although since 2020 the pub has remained ostensibly set up as if a pub, there has been a spread of residential use and activity downstairs. There is also little to suggest that during this time the pub was actually used by visiting patrons. This significant change in the nature and character of use of the building, for a considerable period of time, means the living accommodation can no longer be regarded as incidental to the pub, which has not been used as such meantime. The building has instead endured since 2020 in independent residential use.
12. Consequently, the appellant has not demonstrated, on the balance of probabilities, that there has not been a material change of use from a pub to an independent residential use. Nor that this development did not require an express grant of planning permission and was not a breach of planning control for any other reason.

Conclusions on Grounds (b) and (c)

13. For the reasons given above the matters stated in the notice had, as a matter of fact, occurred at the date the notice was issued so ground (b) fails. Furthermore, these matters constitute a breach of planning control so ground (c) fails.

Formal Decision

14. It is directed that the enforcement notice is corrected by:

- In section 3 – after the words '*Public House*' and before '*to*', insert '*as hatched blue on the attached plan*'.
- In section 3 – delete the words '*a solely*' and replace with '*an independent*'.
- In section 5 – delete the words '*a solely residential property*' and replace with '*an independent residential use*', and
- Substitute the plan attached to this decision for that originally attached to the notice.

15. Subject to these corrections the appeal is dismissed and the enforcement notice is upheld.

Robin Buchanan

INSPECTOR



Plan

This is the notice plan referred to in my decision dated:

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Not to Scale

