



Appeal Decision

Site visit made on 3 September 2025

by **E Griffin LLB Hons**

an Inspector appointed by the Secretary of State

Decision date: 6th October 2025

Appeal Ref: APP/Q5300/C/24/3336324

143 Monmouth Road, London, N9 0JE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Ahmed Masum against an enforcement notice issued by the Council of the London Borough of Enfield.
- The notice was issued on 11 December 2023.
- The breach of planning control as alleged in the notice is the unauthorised material change of use of the part of the premises, outlined in blue on the attached plan, to a separate unit of accommodation.
- The requirements of the notice are
 1. Cease the use of the side extension as a separate unit of accommodation.
 2. Remove all kitchen and cooking facilities installed in the side extension.
 3. Reinstate the access door between the side extension and the main dwelling.
 4. Remove additional front door installed to the side extension.
 5. Remove additional doorbell installed the side extension.
 6. Remove all resulting materials from the Premises.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(b), (e), (f) and (g) of the Town and Country Planning Act 1990 (as amended).

Decision

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

Applications for costs

2. An application for costs was made by Ahmed Musam against the London Borough of Enfield. This application for costs is the subject of a separate decision.

Preliminary Matters

3. The site visit was intended to be an accompanied visit in the presence of both parties but proceeded on the basis of an access only visit when the Council did not attend. The Council was notified in writing after the site visit of what the Inspector had observed in terms of physical works.

The Notice

4. The appellant has questioned the lack of evidence of authority of the Council to issue the notice. He relies upon an appeal decision issued in 2016¹ where absence of proper authority meant that the notice in that case was a nullity. However, since that decision was issued, the courts² have held that the proper course in such cases is to challenge the issue of the notice by way of judicial review. The type of errors which amount to a nullity argument are limited to the

¹ Ref APP/Q5300/C/15/3006366

² Beg & Others v Luton BC [2017] EWHC 3435 (Admin) [2018] JPL 703

statutory requirements of what must be said on the face of the notice. Concerns regarding the authority to issue a notice do not therefore fall within the remit of this decision.

The appeal under ground (e)

5. An appeal under ground (e) relates to the service of the notice. The appellant has questioned if the notice was validly served on the parties required to be served. Section 172(2) of the Act requires that a copy of the enforcement notice shall be served: on the owner and the occupier of the land to which it relates and on any other person having an interest in the land being an interest which in the opinion of the authority is materially affected by the notice.
6. The list of persons served provided by the Council includes six letters to the appeal site. Three were addressed to 'the Annexe to front' and three were addressed to 143 Monmouth Road. The two sets of letters were addressed to 'Owner,' 'Occupiers' and 'Any person with an interest'. However, the appellant did receive the notice and was able to lodge his appeal and has not indicated that he had insufficient time to lodge his appeal.
7. Even if copies were not served as required, Section 176(5) of the Act states that if a person required to be served with a copy of the enforcement notice was not served, that fact may be disregarded if the appellant or that person is not substantially prejudiced by the failure to serve. The appellant is not substantially prejudiced as he received the notice and has been able to lodge an appeal as an owner and occupier of the appeal site. The appellant has not identified any person who falls within the category of persons who should have been served, did not receive a copy of the notice and has, as a result of that failure, been substantially prejudiced. The appeal under ground (e) therefore fails.

The appeal under ground (b)

8. An appeal under ground (b) is that the matters alleged in the notice have not occurred as a matter of fact. In order to succeed on ground (b), the appellant would need to show, on a balance of probabilities, that the material change of use alleged has not occurred. The allegation relates to the unauthorised change of use to a separate unit of accommodation namely the conversion of a single storey former garage room which is attached to the appeal property. The appellant has understood from the wording that the Council is alleging that the former garage is a self-contained unit in residential use.
9. The appellant maintains that the whole of the property including the former garage room remained in single family occupation. He refers to use of the same address, the same utility connections, same access to the main forecourt area and same curtilage. He has not indicated what facilities were available in the garage room, prior to the issue of the notice.
10. The evidence before me is limited to the appeal form submitted by the appellant and the enforcement notice issued by the Council and a site visit. At the time of my site visit, the only access to the former garage is through an internal door within the appeal property. The single room was largely empty apart from a shower area with a shower cubicle and a modest sink and some domestic storage. However, the relevant date for determining whether or not the alleged breach occurred as a matter of fact is prior to the issue of the notice in December 2023.

11. An enforcement notice which alleges a material change of use can require works which have facilitated that change to be removed whether or not they require planning permission in their own right. Works referred to in the requirements of the notice include removing an additional front door and doorbell, kitchen and cooking facilities and reinstating the internal access door.
12. Whilst there is now a window to the front of the converted garage, based upon the new brickwork around the window, I am satisfied, on the balance of probabilities, that there was an additional front door to the property. However, to be self-contained, the garage room requires viable facilities for day-to-day domestic existence without having to share appliances or equipment located in the rest of the appeal property.
13. Having a shower cubicle and sink without a toilet is consistent with the use of the room for family members. Neither party has addressed whether or not there was a toilet in the garage room or the extent of any kitchen and cooking facilities. Some physical works were carried out at the property which included changing the access by creating a second front door. However, I have no details of when the alleged material change of use commenced or who occupied the garage room. On the balance of probabilities, I find that the garage room has not been used as a self-contained unit and did not have all the facilities required for day-to-day facilities for domestic existence.

Conclusion

14. For the reasons given, I therefore conclude that, on the balance of probabilities, the material change of use of part of the premises to a separate unit of accommodation has not occurred as a matter of fact. I conclude that the appeal should succeed on ground (b). The enforcement notice will be quashed.
15. In these circumstances, the appeal under grounds (f) and (g) do not fall to be considered.

E Griffin

INSPECTOR