



Appeal Decision

Inquiry held on 20 May 2025, 9-10 July 2025, and 17 July 2025 (virtual session)

Site visit made on 20 May 2025

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2025

Appeal Ref: APP/T5150/C/25/3358460

67A Carlton Avenue East, Wembley HA9 8LZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Medhi Ali against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice was issued on 29 November 2024.
 - The breach of planning control as alleged in the notice is the erection of a House in Multiple Occupation (an HMO), including a basement on the land.
 - The requirements of the notice are:
 1. Demolish the House in Multiple Occupation, including the removal of the basement from the land.
 2. Remove all debris, materials, waste and other items associated with the demolition and removal of the House in Multiple Occupation and basement and restore the land to its condition before the breach of planning control took place.
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (d), (f), and (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

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

Application for costs

2. An application for costs was made by the Council of the London Borough of Brent against Mr Medhi Ali. This application is the subject of a separate decision.

Procedural Matters

3. A Case Management Conference (CMC) was held online on 4 March 2025 with representatives of the appellant and the Council. The CMC was held to discuss the arrangements for the Inquiry and not the merits of the appeal.
4. The Inquiry commenced on 20 May 2025 and was programmed to sit for one day. However, shortly after the Inquiry opened it became apparent that the appellant had brought an additional ten witnesses who wished to give evidence. Consequently, it was readily apparent that one day would not be sufficient and that in the interests of fairness, those giving evidence should have the opportunity to provide written proofs of evidence to the Inquiry.
5. Three additional sitting days were subsequently held on 9, 10, and 17 July 2025. All oral witness evidence to the Inquiry was given by sworn affirmation.

Background

6. Although it is not necessary to provide the full planning history of the site, the most pertinent is provided for context. Planning permission¹ was granted at the appeal site on 4 October 2016 (“the 2016 permission”) for the *“demolition of garage and shed and erection of a new two storey three bedroom dwellinghouse with a converted loft space on land adjacent to No 67 Carlton Avenue East, with associated car parking, bin stores and sub-division of detached outbuilding with No 67, and creation of a new vehicular crossover at no 67 with associated alterations to the front boundary wall”*.
7. Construction subsequently commenced on site. However, pre-commencement conditions attached to the 2016 permission had not been discharged and what had been built on site did not accord with the approved plans. It is common ground between the parties that the 2016 permission was not therefore implemented and has since lapsed.
8. A further planning permission was granted at the appeal property on 5 July 2023 for the *“demolition of garage and erection of single-storey rear extension to dwellinghouse”*.
9. After receiving complaints in September 2023 of “7 or 8 single men” living at the appeal property it became apparent to the Council that the property was being used as a House in Multiple Occupation (HMO). An enforcement notice was subsequently issued on 28 March 2024 (“the 2024 notice”) alleging *“the material change of use of the premises to a House in Multiple Occupation (HMO)”*. An appeal² against that notice (“the 2024 appeal”) was made on grounds (a), (f), and (g) with the appeal being dismissed on 26 November 2024.
10. During the course of the 2024 appeal, the documentary evidence appeared to the Council to demonstrate that the building had been constructed and used as a HMO from the outset. A further enforcement notice was then issued on 29 November 2024 alleging the erection of a HMO including a basement, out of which this appeal arises.

Ground (b)

11. An appeal on ground (b) is made on the basis that the matters stated in the notice have not occurred as a matter of fact. This is a legal ground of appeal, and the onus of proof is firmly on the appellant. The appropriate standard for testing the evidence is made on the balance of probabilities, that is to say whether something is more likely than not.
12. The appellant’s own evidence does not need to be corroborated by independent evidence in order to be accepted. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant’s version of events less than probable, there is no good reason to dismiss the appeal, provided the appellant’s evidence alone is sufficiently precise and unambiguous.
13. The appellant’s position is that the appeal property, 67A Carlton Avenue East, was not erected as a HMO as alleged in the notice. Instead, the appellant contends that it was first erected as a single dwellinghouse before being converted to a HMO at a

¹ Council Ref: 15/3681

² APP/T5150/C/24/3343734

later date. This is considered to be consistent with the 2024 notice previously issued by the Council which alleged the material change of use of the premises to a HMO.

14. It is argued that upon substantial completion, No 67A was first occupied by Mr Abdiwahab Ibrahim Nur (AN) and his family as a single-family dwelling. This remained the case for a year, until Mohamed Abdulahi Mohamed (MM) moved into the property and started renting a room. It is at this point the appellant considers that a material change of use from a dwelling to a small HMO occurred.
15. AN provided a Statutory Declaration (SD) and gave oral evidence to the Inquiry. The SD set out that AN was currently residing at the neighbouring property, 67 Carlton Avenue East, and that he and his partner had lived at the appeal property between 1 July 2018 until 1 July 2020. However, in cross examination AN contradicted this by stating that he had lived at the appeal property for six years, moving out in 2024, and that he had not been residing at No 67.
16. To clarify this point, I questioned AN regarding the length of time he had lived at No 67A to which he confirmed he had lived at the property for six years, and not two as stated in his SD. I accept that when recalling events from several years prior, it may on times be difficult to recall the exact day or even month that the event took place. Nonetheless, I find it very difficult to believe that, when recalling the date on which you left a property, a misjudgement of four years could occur. To my mind, the clear inconsistencies raise serious concerns regarding the accuracy and reliability of the evidence given to the inquiry by AN.
17. Further doubt on the initial occupation of the property arises from the evidence given to the Inquiry by MM. The SD provided by MM set out that he lived at the appeal property between 1 July 2019 and 1 January 2024 and was currently residing at No 67.
18. In cross examination MM confirmed that he was not residing at No 67 as set out in the SD but had in fact been living in Fulham since January 2024. MM also stated to the inquiry that AN had moved out of the property before he had, and whilst he could not remember the date, he thought that was in 2020. This was in direct conflict with the evidence given by AN which was that MM had moved out of the property first “*about one or two years*” after moving in. The evidence given by AN and MM regarding the occupation of the appeal property is far from being precise and unambiguous.
19. The appellant also provided copies of Assured Shorthold Tenancy Agreements (AST) for both AN and MM. The ASTs are dated 1 July 2018 and 1 July 2019 respectively, those also being the dates that AN and MM claim to have moved into No 67A. The existence of an AST though does not, of itself, mean that the property was occupied. The ASTs do not necessarily mean that the tenant actually took up occupation of property, that the term stated on the AST (12 months in this instance) correlates with the actual date the tenant(s) moved out, or that there were no other ASTs for other tenants that covered the same period.
20. The ASTs were also not supported by other evidence such as monthly schedules of rent paid in respect of either a single tenant, or multiple tenants if the property was occupied as a HMO. Both ASTs refer to “*common areas*”, and “*the right to use the common areas (along with the other tenants and occupiers of the building)*”. In respect of the AST signed by AN, it is unclear why there is reference to common

areas and other tenants given that the tenancy was purportedly for use of the property as a single-family dwelling.

21. Furthermore, two copies of each AST were provided by the appellant. One copy is said to have been signed electronically by each tenant at his office, with the second being a “wet” copy. Both AN and MM though confirmed to the Inquiry that they only signed one tenancy agreement, with an “electronic pen” at the appellant’s office. Consequently, in my view the ASTs are not a reliable indication that the appeal property was first occupied as a single-family dwelling.
22. The evidence given by Nikita Swan (NS) also fails to demonstrate that No 67A was first erected and occupied as a single-family dwelling. NS stated that she recalled seeing a family of African descent moving into the appeal property, however she confirmed to the Inquiry that she could not remember when that took place. It is also unclear from her evidence whether that family occupied the property alone or with other tenants or families.
23. The Council’s primary reason for issuing the second enforcement notice relates to the contents of a document submitted in relation to the 2024 appeal. In the grounds of appeal document dated 3 May 2024 it states that “*the appellant will demonstrate that the building as approved in 2015 was solely used as a HMO from its initial occupation*” and “*the appellant will seek to demonstrate that the building as erected was as a HMO*”. The document was produced and signed by a planning consultant and chartered town planner who was acting on behalf of the appellant.
24. The appellant sought to play down the contents of this document by asserting that the planning consultant had advised him on what grounds of appeal to make, and that he himself had never stated that the property had been erected as a HMO. Nevertheless, there is no evidence before me to suggest that the document is anything other than genuine or that it was not prepared to the best of the authors ability and knowledge. The planning consultant is a suitably qualified professional who is required to adhere to a code of professional conduct, and as such I find it unlikely that he would put his name to a document which he knew to contain false information.
25. It is for the appellant to demonstrate his case to the necessary standard of proof, and with sufficiently precise and unambiguous evidence. He has not. Accordingly, I find that the appellant has not demonstrated, on the balance of probabilities, that the alleged breach of planning control has not occurred as a matter of fact. The ground (b) appeal therefore fails.

Ground (d)

26. The appeal on ground (d) is that at the date when the notice was issued, no enforcement action could be taken in respect of the breach of planning control. There is no dispute between the parties that, as held in the case of *Caldwell*³, the erection of the building is fundamental to and causative of the material change of use and therefore the time limit set out in section 171B(1) of the 1990 Act applies.
27. There is also no dispute that the building was substantially completed prior to 25 April 2024, before the legislative changes to time limits, and therefore no enforcement action can be taken after a period of four years beginning with the

³ Secretary of State for Levelling Up, Housing and Communities v Caldwell [2024] EWCA Civ 467

date on which the operations were substantially completed. As the notice was issued on 29 November 2024, the appellant would need to demonstrate, on the balance of probabilities, that the building had been substantially completed on or before 29 November 2020.

28. There is no statutory definition of “substantially completed” and in *Sage*⁴ the Court found that a holistic approach should be taken. This means that the development should be considered as one operation, which includes the external and internal works. The appellant’s position is that the building was substantially complete by May 2018.
29. Turning firstly to the external works, a variety of Google Earth images including those dated May 2018, June 2019, and April 2020 were provided. All these images appear to show a building which was substantially complete with its roof fully intact. Although taken very shortly after the relevant date of 29 November 2020, a Google Street image dated December 2020 also showed the building to be substantially completed externally, including all windows being fitted on the front elevation of the property.
30. During cross examination the Council’s witness Nigel Wicks (NW) accepted that externally the building was substantially complete by the relevant date. I concur with this view, as it appears abundantly clear from the available evidence that the external fabric of the building was substantially complete well in advance of the relevant date. The presence of hoarding around the site or building materials in the garden has no bearing on the stage of completion that the development had reached. The matter therefore turns on whether the building could be considered substantially complete internally.
31. In respect of the internal fabric of the building, a range of documentary evidence was produced, including the tenancy agreements referred to in the ground (b) appeal above, along with other documentation originally produced in support of an application for prior approval⁵ for the construction of additional storeys at the appeal property in 2021. This included a letter dated 15 May 2018 from Clive Cross (Futureway Homes Ltd), Electrical Installation Certificates dated 11 January 2018, an invoice for heating installation dated 1 December 2017 from Z Mangi Ltd, and a Site Inspection Report from BBS Building Control Ltd (now Stroma) dated 9 November 2017 (“the BBS report”).
32. In addition to the aforementioned documentary evidence, statutory declarations and oral evidence relating to the internal condition and occupation of the property was provided by several witnesses. In particular, this includes evidence from Akpesha Patel (AP), NS, Atulrai Desai (AD), and Mudassir Kadiri (MK). All these witnesses stated to the Inquiry that they had visited and been inside the property by mid-2018, and whilst it was not occupied the property was finished internally.
33. AP set out in her written statement that she had viewed the property and that at that point it was ready internally. She further set out that the property was fully decorated, including carpets, bedrooms, kitchens and bathrooms. At the inquiry AP confirmed that her witness statement was hers and its contents were true. I asked her to confirm when she visited the property to which she replied, “*the first or*

⁴ *Sage v Secretary of State for the Environment, Transport and the Regions and Maidstone BC* [2003] UKHL 22

⁵ Council Ref: 21/3228

second week of June 2018” and that *“it was not occupied at that time, but the inside was done”*.

34. NS similarly confirmed that the contents of her witness statement was true, and that around mid-2018 a viewing was arranged at the property. NS confirmed to the inquiry that at the time of her visit the property *“didn’t look occupied”* but was *“fully furnished and ready to let”*.
35. AD also confirmed much the same, and that he had visited the property after arranging a viewing. At the time of this viewing the property appeared complete with the house being fully decorated, with kitchens and bathrooms and appeared ready for occupation. AD confirmed to the inquiry that this visit took place in June 2018.
36. MK also confirmed that, as per his written statement, he had arranged a viewing at the property at which point the interior was fully decorated including carpets and had bedrooms, bathrooms, and a kitchen. When asked, MK stated to me that the visit had taken place in *“May or June 2018”* and that *“it didn’t look occupied, it was decorated and ready to rent”*.
37. Another witness, Yasan Hasan (YH), also set out to the inquiry that by May 2018 he had observed that the house was substantially completed with the interior fully decorated, and the kitchen and bathrooms fitted. He further confirmed in his oral evidence that the last time he visited the property was *“just before covid”* at which point the property was occupied. He further confirmed that *“the property was finished and occupied by 2019”*.
38. The Council dispute the authenticity of the documentary evidence produced. The letter from Futureway Homes Ltd is questioned on the basis that it is written in the past tense when referring to events taking place on the date of the letter, and that Mr Cross has not been contactable via either the address or phone number provided on the letter. The electrical certificates are not considered by the Council to be genuine as they refer to British Standard BS 7671:2018 which came into effect on 1 January 2019, after the works purportedly took place.
39. Additionally, Bazz Construction Ltd who issued the certificates were not incorporated until 2 October 2018, which is around 10 months after the date of issue. Bazz Construction Ltd was also not registered with the National Inspection Council for Electrical Installation Contracting (NICEIC) at the time the certificates were issued. The Council also consider that the Z Mangi Ltd invoice is not genuine.
40. Turning finally to the BBS Report, both parties accepted that the first copy of the report had been altered and was not genuine. The Council had subsequently obtained a copy of the genuine report from the company (now known as Stroma), with both parties accepting that as a genuine document, with the photos contained therein showing the condition at the property as it stood in November 2017.
41. The appellant sought to provide an explanation for each of the Council’s concerns. It is the appellant’s view that the fact that the Council has been unable to contact Mr Cross does not put into question the reliability of the letter dated 15 May 2018. In terms of the electrical certificates, it was said that they were provided at a later date and therefore the date relates to when they were completed, rather than the time of the works. The appellant also set out that it was not for him to account for

- when the respective companies were incorporated or when they were registered with the NICEIC.
42. In terms of the invoice from Z Mangi Ltd, the appellant explained that he had a falling out with Mr Alamiri (of Z Mangi Ltd) which is why Mr Alamiri had initially said that the document was not genuine. Mr Alamiri had however since clarified the position and confirmed that he had undertaken the works. Finally, the appellant set out that the first BBS Report that had been altered had been provided to him and he had not produced it himself.
43. I do share the Council's concerns regarding the reliability of some of the documentary evidence provided. One exception though is the BBS Report given that the genuine report has now been provided, and I am satisfied that the report and photographs contained within it accurately detail the condition of the property at that time. What those photographs show is a building which is largely complete externally, with windows and internal fittings and finishings to be completed.
44. NW accepted in cross examination that the genuine BBS Report accurately showed the state of the building when the inspection took place on 9 November 2017. He also accepted that it would have been possible to complete the outstanding works by May 2018. I find no reason to disagree with that view, and it is quite clear that the remaining works could quite comfortably be completed by the relevant date of 29 November 2020 if so desired.
45. Much of the concerns raised by NW relate to previous dealings with the appellant and how he had operated on other sites, which are said to have taken many years to complete. However, in this case there is evidence from a significant number of the witnesses who have all stated that they visited and entered the property and saw that it was completed internally, furnished, and ready for occupation by around mid-2018. NW accepted in cross examination that the internal condition of the property as described by AP in her evidence would be substantially complete.
46. Each of the witnesses were sworn-in giving affirmation that their evidence would be the truth, and at the outset of the inquiry I made all those present aware of the penalties for making false statements under the Perjury Act 1911. There are indeed serious implications for any person who makes a false statement either in a statutory declaration or when lawfully sworn as a witness in a judicial proceeding, including having to pay significant fines or being sentenced to time in prison. Given the potential sanctions, I attribute significant weight to the witness evidence.
47. Even if I were to disregard all the documentary evidence relied on by the appellant, all the sworn oral evidence given by the appellant's witnesses, including the appellant himself, AP, NS, AD, MK and YH, is precise and unambiguous in detailing that the internal fabric of the property was completed by around May and June 2018. The genuine BBS Report also does not contradict the stated version of events or make them less than probable.
48. Similarly, the photographs produced by the Council dated after the relevant date do not demonstrate that the property was not substantially completed, or that it was not in a habitable state. Many of the photographs dated July 2023 onwards also show materials and works which appear to be in connection with the erection of the single-storey rear extension that was granted planning permission⁶ on 5 July 2023.

⁶ Council Ref: 23/1367

49. The Council has not provided any evidence to refute the appellant's nor his witnesses version of events in relation to when the internal fabric of the building was substantially complete. It is established case law that an appellant's evidence should not be rejected simply because it is not corroborated. If there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted⁷.
50. There is no dispute between the parties that the external fabric of the building was substantially complete before the relevant date. In terms of the internal fabric, the various witness statements and oral evidence given to the inquiry are precise and unambiguous. They set out clearly when the building works were completed and when the property became habitable. In the absence of any evidence to the contrary, that evidence should be taken at face value.
51. Consequently, the circumstances of this case are such that I am satisfied that the appellant's evidence is sufficiently precise and unambiguous to conclude, on the balance of probability, that the building operations in question are immune from enforcement action.
52. I therefore conclude that the appeal on ground (d) succeeds.

Conclusion

53. For the reasons given above, I conclude that the appeal succeeds on ground (d). The enforcement notice is therefore quashed. In these circumstances, the appeal on grounds (f) and (g) do not fall to be considered.

David Jones

INSPECTOR

⁷ Gabbittas v SSS & Newham LBC [1985] JPL 630

APPEARANCES

FOR THE APPELLANT:

Jack Parker

Counsel, Cornerstone Barristers, instructed by
Mr Jeremy Peter

He called:

Apeksha Patel

Factual Witness

Nikita Swan

Factual Witness

Albert Robinson

Factual Witness

Atulrai Desai

Factual Witness

Jamal Abdi Warsame

Factual Witness

Mudassir Kadiri

Factual Witness

Sadik Karim

Factual Witness

Yasar Hasan

Factual Witness

Abdiwahab Ibrahim Nur

Former resident of 67A Carlton Avenue East

Mohamed Abdulahi Mohamed

Former resident of 67A Carlton Avenue East

Medhi Ali

Appellant

Jeremy Peter

Planning Consultant, Jeremy Peter Associates

FOR THE LOCAL PLANNING AUTHORITY:

Tom Wicks

Director of Enforcement Services Ltd,
instructed by the Council of the London
Borough of Brent

He called:

Nigel Wicks

Director of Enforcement Services Ltd

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Google Earth and Google Street images submitted by the appellant
2. Opening statement of the Council of the London Borough of Brent
3. Emails and photographs in relation to the Council's site visit to 9 Forty Close, Wembley
4. AST agreement of Mr Mohamed Abdulahi Mohamed, dated 1 July 2019
5. AST agreement of Mr Abdiwahab Ibrahim Nur, dated 1 July 2018
6. Closing statement on behalf of the appellant
7. Closing statement of the Council of the London Borough of Brent