



Appeal Decision

No Site Visit Made

by **A Berry MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 October 2025

Appeal Ref: APP/T5150/C/24/3341279 319 Kingsbury Road, London NW9 9PE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act").
 - The appeal is made by Mr B Hirani against an enforcement notice ("EN") issued by the Council of the London Borough of Brent.
 - The EN was issued on 14 February 2024.
 - The breach of planning control as alleged in the EN is: Without planning permission, the material change of use of the premises to flats.
 - The requirements of the EN are:
 - STEP1 Cease the use of the premises as flats.
 - STEP2 Remove all internal partitions, items, materials and debris associated with the unauthorised change of use, including the removal of all kitchen, en-suite bathrooms/shower rooms and toilets.
 - STEP3 Restore the internal configuration to the layout which existed prior to the unauthorised change of use taking place, as shown in "Plan A" attached to this notice.
 - The period for compliance with the requirements is: 6 months after this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the 1990 Act.
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Decision

1. It is directed that the EN is varied by:

- *the deletion of the words "STEP 2 Remove all internal partitions, items, materials and debris associated with the unauthorised change of use, including the removal of all kitchen, en-suite bathrooms/shower rooms and toilets" and their substitution with the words "STEP 2 Remove all internal partitions, items, materials and debris associated with the unauthorised material change of use, including the removal of kitchen, en-suite bathrooms/shower rooms and toilets" in schedule 4; and*
- *the deletion of the words "STEP 3 Restore the internal configuration to the layout which existed prior to the unauthorised change of use taking place, as shown in "Plan A" attached to this notice" in schedule 4.*

Subject to the variations, the appeal is dismissed and the EN is upheld.

Preliminary Matter

2. The appeal is made under grounds (f) and (g), which rest on the facts of the case. A site visit was not therefore necessary as it would not help me reach a decision. Therefore, both parties were advised of my intention to determine the appeal without a site visit.

Appeal on Ground (f)

3. An appeal under ground (f) is that the steps required by the EN to be taken, or the activities required by the EN to cease, exceed what is necessary to remedy any breach of planning control, or remedy any injury to amenity which has been caused by any such breach.
4. The breach of planning control is the material change of use of the premises to flats. The EN requires the use to cease; the removal of all items associated with the material change of use; and the restoration of the internal configuration of the premises to how it existed prior to the material change of use taking place. Therefore, the purpose of the EN is to remedy the breach of planning control.
5. It is necessary for the matter described in the breach to be expressed consistently throughout the EN. Therefore, step two of the requirements should be varied to state “...*the unauthorised material change of use...*” rather than “...*the unauthorised change of use...*”.
6. Step two of the requirements seeks the removal of “...*all kitchens, en-suite bathrooms/shower rooms and toilets*”. Although this requirement is preceded with “*associated with the unauthorised material change of use*” (as amended), it could be mis-interpreted that no kitchens, en-suite bathrooms/shower rooms can be retained. To ensure the requirement is clear, and to allow the fixtures and fittings reasonably required to sustain the lawful use to be retained, I find it necessary for the word “*all*” to be deleted from step two.
7. As these variations are for precision, I am satisfied that they can be done without causing injustice to either party.
8. The appellant does not raise concern regarding step one that requires the cessation of the premises as flats. Step two details the works that are required to be undertaken to the interior of the premises. The appellant requests that step two is varied so that the requirement for the removal of the hallway partition is either omitted or its height reduced.
9. Although the works to the interior of the premises would not normally in themselves be an act of development, they are integral to and part and parcel of the material change of use of the premises to flats. Therefore, all works that facilitated the material change of use, even if they might not have required planning permission, must be removed. Any lesser step, including a variation to the hallway partition, would not remedy the breach and therefore, it cannot be accepted through ground (f). Consequently, I am satisfied that step two of the requirements does not exceed what is necessary to remedy the breach.
10. Step three of the requirements seeks to restore the internal configuration of the building to the layout that existed prior to the unauthorised material change of use taking place. The Council has attached a drawing to the EN to show how the premises’ layout must be restored. The appellant asserts that step three is excessive as the attached floorplan drawing shows a historical layout that predates the appellant’s acquisition of the property’s freehold rights.
11. The breach of planning control would be remedied by steps one and two of the EN. Requiring the restoration of the internal configuration of the premises goes

beyond remedying the breach. I will therefore vary the requirements of the EN by deleting Step 3.

12. For these reasons, the appeal on ground (f) succeeds to this limited extent.

Appeal on Ground (g)

13. An appeal under ground (g) is that the period specified for compliance with the EN falls short of what should reasonably be allowed. The period for compliance specified in the EN is six months. The appellant requests a period of 12 months.
14. The appellant contends that the six month period is inadequate considering the scope and complexity of the remediation tasks which they assert would include extensive planning, coordination with contractors, potential structural challenges, and possible unforeseen complications. Furthermore, they state that the works will create an unpleasant environment in which to live. They consider twelve months is a more realistic and manageable period.
15. The Council, on the other hand, consider a twelve month period to be akin to a grant of temporary planning permission. I agree with the Council on this matter; twelve months would be a considerable amount of time for the harm identified in the EN to persist.
16. The appellant's evidence suggests that some of the works to be completed have already been done, such as the removal of the first floor kitchen and an internal door. I have also varied the requirements of the EN to delete step three and therefore, the EN's requirements are less extensive. Consequently, a six month period would be sufficient for the steps, as varied, to be completed.
17. I agree with the Council that if unforeseen circumstances arise that prevent the appellant from undertaking the necessary work in time, the Council can use their discretion to extend the compliance period under s173A(1)(b) of the 1990 Act.
18. As such, I find that the six month compliance period afforded by the EN does not fall short of what is reasonable. Therefore, the appeal on ground (g) fails.

Conclusion

19. For the reasons given above, I conclude that the requirements of the EN are excessive to remedy the breach of planning control. I shall vary the EN prior to upholding it. The appeal on ground (f) succeeds to that extent.

A Berry

INSPECTOR