



Appeal Decision

Site visit made on 11 November 2025

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2025

Appeal Ref: APP/T5150/C/24/3337006

299 Cricklewood Broadway, London NW2 6NX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended.
- The appeal is made by Mr Yousif Aljarrah against an enforcement notice issued by the Council of the London Borough of Brent.
- The notice was issued on 8 December 2023.
- The breach of planning control as alleged in the notice is *without planning permission, the material change of use of the rear part of the ground floor of the premises to residential flats*.
- The requirements of the notice are:
STEP 1 Cease the use of the rear part of the ground floor of the premises as residential flats.
STEP 2 Remove all items associated with the residential use from the ground floor of the premises, including all fixtures and fittings such as kitchens, bathrooms and partition walls and doors.
STEP 3 Remove all items, materials and debris, arising from the compliance with Steps 1 and 2, from the premises.
- 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)(c), (f) and (g) of the Town and Country Planning Act 1990 (as amended).

Formal Decision

1. It is directed that the enforcement notice is corrected by:
 - At Schedule 2 of the enforcement notice replace the plural 'flats' with the singular term flat so that it reads as follows:
"Without planning permission, the material change of use of the rear part of the ground floor of the premises to a residential flat."
 - Similarly at Schedule 4 in the requirements section of the enforcement notice replace the plural 'flats' with the singular term flat so that it reads as follows:
"STEP 1 - Cease the use of the rear part of the ground floor of the premises as a residential flat."
2. Subject to these corrections the appeal is dismissed, and the enforcement notice is upheld.

The Enforcement Notice

3. The enforcement notice alleges a material change of the rear part of the ground floor of the premises to use as flats, rather than a single flat. However, the evidence before me suggests that the rear part of the ground floor was, at the time of the enforcement notice, in use as a single flat. There is no evidence that a material change of use of the rear part of the ground floor to more than one flat has occurred. In the interests of clarity and to avoid any misinterpretation I have corrected the notice as stated above, to ensure that the breach of planning control and requirements of the notice are directed to the residential flat at the rear part of

the ground floor of the premises only. No injustice would arise to the Local Planning Authority, since their evidence is clear they do not allege more than one flat has occurred. Likewise, no injustice would arise to the appellant as their case has been made on the basis the notice is targeted at a single flat.

Preliminary Matters

4. I was unable to gain internal access to the appeal property at the time of my visit. Consequently, I undertook the site visit on an unaccompanied basis from the roadside, viewing the property from Cricklewood Broadway and Mora Road. Nevertheless, I have been furnished with various dated internal photographs¹ from the Council as part of their Statement of Case, which have assisted me in determining the appeal. I have informed both parties of my intention to determine the appeal on this basis, and they have both agreed this approach is acceptable. As such, I am satisfied that neither party has been prejudiced.
5. The appellant has made representations in respect to policy DMP2 of the Brent Local Plan 2019-2041 (BLP), adopted February 2022, which relates to the retention of commercial premises within designated Town Centres. The appellant also makes representations on the standard of residential accommodation provided, living conditions of occupants, refuse and cycle storage. However, as the appellant has not appealed under ground (a), nor paid the relevant fee, there is no deemed planning application for me to consider. As a result, the planning merits of this case are not before me.

Appeal on ground (c)

6. An appeal under ground (c) is made on the basis that the matters stated in the notice (if they occurred) do not constitute a breach of planning control. In a legal ground of appeal, the onus of proof is firmly on the appellant to make their case, on the balance of probabilities².
7. The National Planning Practice Guidance (PPG) confirms there is no statutory definition of 'material change of use'. The PPG advises that generally, this type of development is linked to the significance of the change and the resulting impact on the use of land and buildings. There must be some significant difference in the character of the activities from what has gone on previously. Whether a material change of use has taken place is therefore a matter of fact and degree, determined on the individual merits of a case.
8. Both parties agree the appeal site was used as a retail premises under use Class A1 (now Class E)³ of the Town and Country Planning (Use Classes) Order 1987 (UCO) as amended, prior to the alleged breach taking place. The photographs provided by the Council highlight that the previous Class E use at the ground floor of the rear of the property has ceased and is currently being occupied as a single residential flat.
9. From the evidence before me the previous use at the rear of the ground floor of the premises consisted of the storage of goods, materials and items associated with the use of the shop at the front of the premises. In contrast, at the date the notice was issued, the Council's photographs highlighting the site now contains a

¹ Appendices 4 and 5 of the Council's Statement of Case

² *Thrasivoulou v SSE & Hackney LBC* (No 1) [1984] JPL 732

³ Paragraph 5.5 of the Appellants Statement of Case

kitchen with cooking and food preparation facilities, a bedroom, toilet and washing facilities. It thus contained all the facilities needed for everyday living, and from the photos appeared to be occupied. Consequently, there was a significant difference between the operation and character of activities undertaken by these two distinct uses at the site. Thus, a material change of use has taken place which would require planning permission.

10. From the evidence before me, planning permission has previously been refused⁴ and dismissed⁵ at the site for *“the subdivision of the ground floor unit to create a one bedroomed dwelling and creation of new internal staircase to existing second floor flat”*. Thus, no planning permission exists for the alleged change of use.
11. I would acknowledge that Article 3(1) of the GPDO⁶ grants planning permission for the development defined as “permitted development” in Class MA of Schedule 2 for the change of use of a building to use from Class E to a use falling within Class C3. However, permission is granted subject to the condition that the prior approval of the Local Planning Authority is sought for the proposed change of use. There is no evidence before me that such prior approval has been granted, and thus that the development before me would be permitted development under Class MA of Schedule 2.
12. Subsequently, I find that the material change of use from Class E of the UCO to a residential flat under Class C3 has taken place, for which planning permission is required. Therefore, the matters stated in the notice have occurred, and I conclude that the appellant has not shown, on the balance of probabilities, that they do not constitute a breach of planning control.
13. Therefore, the appeal under ground (c) fails.

Appeal on ground (f)

14. An appeal on ground (f) is made on the basis that the requirements of the notice exceed what is necessary. Section 173(4) of the 1990 Act sets out the purposes which an enforcement notice may seek to achieve. They are either (a) remedying of the breach of planning control or (b) remedying any injury to amenity which has been caused by the breach. Step 1 of the corrected notice requires the use of the rear part of the ground floor of the premises as a residential flat to cease, with Step 2 requiring the removal of all items associated with its use as a residential flat. Therefore, the complete removal of the residential use would restore the land to its condition before the breach took place, thus the purpose of the enforcement notice is clearly to remedy the breach.
15. The appellant contends that the ground floor flat could be made acceptable through the use of suitable conditions, with particular reference to the living conditions of existing and future occupiers. However, there is no scope for me to consider whether the use could be made acceptable through the use of planning conditions, as there is no ground (a) appeal before me. Consequently, there are no lesser steps that could be taken here, as the unauthorised residential flat would remain in situ, thus the breach of planning control would not be remedied. Clearly this would not achieve the purpose of the notice.

⁴ London Borough of Brent Planning Ref: 18/2373

⁵ PINS Ref: APP/T5150/W/18/3213830

⁶ Schedule 2, Part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) – “The GPDO”

16. Therefore, the steps required by the notice to be taken, do not exceed what is necessary to remedy any breach of planning control. Thus, the ground (f) appeal fails.

Appeal on ground (g)

17. For an appeal on ground (g) to succeed, it is to be demonstrated that the period specified in the notice for compliance in accordance with section 173(9) of the 1990 Act falls short of what should reasonably be allowed.
18. The appellant argues that a period of 9-11 months is the minimum necessary to undertake the requirements of the enforcement notice, given that the existing tenants would need time to find alternative accommodation. I appreciate that finding and securing alternative accommodation is not a straightforward process. Nevertheless, I have been presented with little evidence that would lead me to otherwise conclude that the period of 6 months is reasonable and proportionate to remedy the breach of planning control.
19. Furthermore, the 6 month timeframe would strike an appropriate balance between the remedial rather than punitive requirements of the enforcement notice whilst also maintaining public confidence in the planning system.
20. I therefore conclude that the ground (g) appeal fails.

Conclusion

21. For the reasons given above, I conclude that the appeal should not succeed, and I shall uphold the enforcement notice with corrections.

Robert Naylor

INSPECTOR