



Appeal Decision

Site visit made on 2 September 2025

by **Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 December 2025

Appeal Ref: APP/T5150/C/24/3341730

16 Melrose Gardens, Edgware HA8 5LN

- 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 Narendra Pindoria against an enforcement notice issued by the Council of the London Borough of Brent.
- The notice was issued on 21 February 2024.
- The breach of planning control as alleged in the notice is *without planning permission, the material change of use of the premises to a House in Multiple Occupation (HMO) and two flats. ("the unauthorised change of use")*.
- The requirements of the notice are:
STEP 1 - Cease the use of the premises as flats.
STEP 2 - Cease the use of the premises as a House in Multiple Occupation (HMO).
STEP 3 - Remove all internal partitions, items, materials and debris, associated with the unauthorised change of use, and restore the internal configuration to the layout, which existed prior to the unauthorised change of use took place, as shown in "Plan A" attached to this notice.
- The period for compliance with the requirements are: *6 months after this notice takes effect.*
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b) and (f) of the Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the 1990 Act.

Formal Decision

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

Appeal on Ground (b)

2. An appeal on this ground is that the matters alleged in the enforcement notice, have not occurred. In order to succeed on this ground, the appellant must demonstrate that, on the balance of probability¹, the matters stated in the enforcement notice have not occurred as a matter of fact.
3. The appellant contends that No.16 Melrose Avenue is in use as a 5-bedroom, 6-person House in Multiple Occupation (HMO) only and does not contain any separate self-contained flats, therefore the alleged change of use to an HMO and two flats has not occurred. I note that the enforcement notice fails to specify which of the units are flats nor which units form part of the HMO, thus the notice is imprecise and would require a correction in this respect. Nevertheless, given that I am allowing the appeal and subsequently quashing the notice, it will clearly cease to have effect. I am therefore satisfied that any corrections to the enforcement notice are not necessary, and there would be no prejudice to either party.
4. The main issue therefore is establishing the distinction between a self-contained flat and HMO.

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

5. HMOs fall within Class C4², whilst self-contained flats are considered dwellinghouses for the purposes of the 1990 Act and thus are Class C3 under the UCO. *Gravesham*³ is the lead case on defining a “dwellinghouse”. The *Gravesham* case found the distinctive characteristic of a dwellinghouse was its ability to afford to those who used it, the facilities required for a day to day private domestic existence.
6. Section 254 of the Housing Act 2004 sets out several tests which deal with the definition of an HMO. The standard test at s254(2)(a) includes whether one or more units of living accommodation consists of a self-contained flat. At s245(8) a self-contained flat is defined as a separate set of premises (whether or not on the same floor), which (a) forms part of a building; (b) either the whole or a material part of which lies above or below some other part of the building; and (c) in which all three basic amenities are available for the exclusive use of its occupants. The three basic amenities include a toilet, personal washing facilities, and cooking facilities. Therefore, in this case it is important to ascertain the facilities and amenities available within the rooms at No.16.
7. From my site visit the property is subdivided over three floors. The ground floor contains a shared kitchen and a shared toilet and shower room both accessed via the hallway. The ground floor also contains room 1 at the front of the property and room 2 at the rear. The first floor has two further units with room 3 at the front and room 4 at the rear. Room 5 is located in the top floor within the extended roof space. All five rooms are accessed via secure and lockable doors. Each room is relatively small and consists of a private bedroom, with a bed, storage units, table and chairs and en-suite facilities including a toilet, shower and basin. From the information before me this appears the same situation when the enforcement notice was issued.
8. All the rooms at No.16 would therefore meet parts (a) and (b) of the definition of a self-contained flat in the Housing Act. They all also partially meet the basic amenity criteria, in that they all include a private toilet and personal washing facilities. Where they differ is that only rooms 2 and 5 would provide their own cooking facilities. As there is a lack of private cooking facilities, rooms 1, 3 and 4 would therefore be considered as an HMO, given that the separate occupiers do not form a single household and would be required to access the shared kitchen at the ground floor for cooking meals.
9. Rooms 2 and 5 contained a small kitchenette consisting of kitchen cabinets, a work top, refrigerator, sink, tap, extraction hood, microwave oven, cutlery and crockery. From the Councils evidence the kitchenettes previously exhibited plug in electrical hobs, however these were not present at the time of my visit.
10. Based on their access to private cooking facilities, I can understand why the Council would consider rooms 2 and 5 as self-contained flats, given that they meet all the requirements of the definition contained in the Housing Act. Furthermore, the kitchenette facilities would also provide these rooms with the potential for a day to day private domestic existence, as set out in *Gravesham*. Whilst the tests in the Housing Act and the *Gravesham* case overlap, they are not necessarily the same, and it is important to view the submitted evidence in the round.

² The Town and Country Planning (Use Classes) Order 1987 (UCO) as amended, defines Class C4 as use of a dwelling house by not more than six residents as a “house in multiple occupation”

³ *Gravesham BC v SSE & O'Brien* [1982] 47 P&CR 142; [1983] JPL 307

11. The occupiers of rooms 2 and 5 also have access to the communal kitchen at the ground floor, along with all the other occupants at No.16. The ground floor kitchen is extremely well equipped and includes large preparation areas, two ovens, two gas hobs consisting of four rings, two extraction hoods, two sinks with draining boards, along with the various other kitchen appliances and paraphernalia associated with culinary usage. Given the access to the array of kitchen facilities, it is highly likely that occupiers of rooms 2 and 5 could use these facilities exclusively as part of their everyday existence.
12. Conversely, I am unaware of any restriction on the occupiers of rooms 1, 3 and 4 preventing them from plugging in their own electrical hobs, microwaves, kettles, toasters, air-fryers or alike, and thus providing occasional cooking facilities within their rooms. Whilst convenient by providing the occupants with access to warm snacks and beverages, access to the communal kitchen facilities would still be essential. Furthermore, the size of the rooms would limit the provision of cooking facilities, particularly in rooms 1 and 4 which the Council have identified as a substandard size. Consequently, as with rooms 2 and 5, the access to convenient cooking facilities does not necessarily provide the occupiers with a day to day private domestic existence.
13. Based on my site observations and the evidence submitted, I would conclude that the size of the rooms is restricted by their requirements to provide standard accommodation such as a bed and storage facilities etc which limits space for the provision of cooking facilities within the rooms. Nevertheless, I appreciate that rooms 2 and 5 do already contain all the basic amenities including those for cooking. However, in this case I find that these facilities would only be applicable to convenience and/or occasional use rather than everyday usage. As such, I am unable to conclude these rooms would provide the facilities required for day-to-day private domestic existence, as set out in *Gravesham*, to the extent that they would be deemed self-contained flats and thus dwellinghouses for the purposes of the 1990 Act.
14. Overall, I consider that No.16 Melrose Gardens was an HMO falling within Use Class C4 on the date that the enforcement notice was issued. Therefore, I must conclude that, on the balance of probability, the breach of planning control alleged in the notice has not occurred as a matter of fact. Accordingly, the appeal on ground (b) succeeds.

Other matters

15. Both parties have provided me with other Inspector decisions, where the consideration of what constitutes self-contained flats, and an HMO have been explored and subsequently determined. Given that there are conflicting conclusions, it appears to me that each case has been dealt with on its own merits, based on fact and degree. Whilst the considerations of those appeals are important, nevertheless, I have dealt with the appeal on the basis of the facts of the case before me, evidence presented and my site observations.

Conclusion

16. For the reasons given above, I conclude that the appeal should succeed on ground (b), and the enforcement notice will be quashed. In these circumstances, the appeals on grounds (a) and (f), and the application for planning permission

deemed to have been made under section 177(5) of the 1990 Act, do not fall to be considered.

Robert Naylor

INSPECTOR