



Appeal Decisions

Site visit made on 25 November 2025

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

an Inspector appointed by the Secretary of State

Decision date: 12th December 2025

Appeal A Ref: APP/T5150/C/23/3328279

Appeal B Ref: APP/T5150/C/23/3328280

Flats 1 and 2, 59 Chalkhill Road, Wembley HA9 9AU

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act").
 - Appeal A is made by Mr Andrew Ezzati and Appeal B is made by Mr Alireza Hatamikia against an enforcement notice ("EN") issued by the Council of the London Borough of Brent.
 - The EN was issued on 18 July 2023.
 - The breach of planning control as alleged in the EN is: Without planning permission, the material change of use of the premises to two flats. ("the unauthorised change of use")
 - The requirements of the EN are:
 - STEP 1 Cease the use of the premises as flats.
 - STEP 2 Remove all internal partitions, items, materials and debris associated with the unauthorised change of use from the main house, including the removal of all kitchens, except the ONE on the ground floor.
 - STEP 3 Restore the internal configuration of the main house to the original layout before the unauthorised change of use took place.
 - The period for compliance with the requirements is: 6 months after this notice takes effect.
 - The appeals are proceeding on the ground set out in section 174(2)(b) of the 1990 Act.
-

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 from the main house, including the removal of all kitchens, except the ONE on the ground floor"; and their substitution with the words "STEP 2 Remove all internal partitions, items, materials and debris associated with the unauthorised material change of use from the house, including the removal of all but one kitchen" in schedule 4; and*
 - *the deletion of the words "STEP 3 Restore the internal configuration of the main house to the original layout before the unauthorised change of use took place" in schedule 4.*

Subject to the variations, the appeals are dismissed and the EN is upheld.

Matters Concerning the Notice

2. It is necessary for the matter described in the alleged 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...". As this variation is for precision, I am satisfied that it can be done without causing injustice to either party.

3. The evidence suggests that the premises includes two kitchens. Step 2 of the EN's requirements seeks the removal of the first floor kitchen and the retention of the ground floor kitchen. The appellant's evidence suggests that the main kitchen was to the first floor. It is not necessary for Step 2 to state which kitchen should be removed, only that one kitchen will remain within the premises.
4. I therefore asked the parties for their views on varying the wording of Step 2 to refer to the removal of all but one kitchen. The Council raised no objection. No response was received from the appellants. I am satisfied there would be no injustice to either party from this variation as it is less onerous for the appellant and still satisfies the Council's requirement for only one kitchen to remain.
5. The breach of planning control would be remedied by Steps 1 and 2 of the EN's requirements. Therefore, Step 3 is unnecessary. I canvassed the views of both parties on this matter. The Council agreed that Step 3 could be deleted. No response was received from the appellants. As Step 3 duplicates Step 2, I am satisfied that deleting Step 3 would not cause injustice to either party.

Preliminary Matter

6. An accompanied site visit was arranged but the appellants did not attend. Although I was unable to see inside the premises, the premises' current interior is not determinative to the outcome of a ground (b) appeal. Therefore, I will determine the appeal on the evidence before me.

Appeal on Ground (b)

7. An appeal under ground (b) is that those matters stated in the EN have not occurred. To succeed, it is incumbent on the appellant to demonstrate that, on the balance of probability, the matter(s) alleged have not occurred, as a matter of fact.
8. The alleged breach of planning control refers to the material change of use of the premises to two flats. The appellants assert that the matters stated in the EN have not occurred; there have been no changes to the property since they purchased it on 2 November 2010; and the premises has been occupied as a House in Multiple Occupation ("HMO").
9. The front page of an HMO Licence for the premises has been submitted that was issued on the 27 July 2020 and expired on 27 July 2021. While an HMO licence was granted, it does not prove that the premises was occupied in this way. No further evidence has been provided to establish that the premises has been occupied as an HMO since the appellants purchased the property.
10. The Council gained access to the ground floor accommodation on 18 August 2020 and to the first/second floor accommodation on 24 August 2022. Photographic evidence shows that the ground floor had an interior door from the hallway that was lockable, and the accommodation included a kitchen/living room and bathroom. The accommodation to the first/second floor had a kitchen, bathroom and living room. Photographs of the exterior of the premises show two doorbells on the front door.
11. In response to a Planning Contravention Notice ("PCN") for the alleged breach of planning control, the appellant of Appeal A provided floorplan sketches of the premises. The sketches indicate that the ground floor comprised one-bedroom, a shower room and a living room with kitchenette, with an interior door separating

the accommodation from the hallway. The first floor contained a living/dining room with separate kitchen, and the second floor contained three bedrooms and a bathroom.

12. The sketches corroborate the Council's photographs. They also indicate that the ground floor had all the facilities required to function as an independent one-bedroom dwelling, and the first and second floors had all the facilities required to function as an independent three-bedroom dwelling. There were no living areas or bathrooms within the premises that were used communally by all the occupiers of the premises, as would be expected of an HMO.
13. In response to the PCN question: "State the total number of occupants in each flat", the appellant of Appeal A replied "*Upstairs rooms – 3 people. Downstairs – let to one person*". This does not demonstrate that the property was being occupied as an HMO as it could equally apply to the property being occupied as two separate flats.
14. The Council has provided evidence dated 18 October 2023 of the Council Tax bands for Flat 1 (ground floor) and Flat 2 (1st and 2nd Floors) at the premises. An email dated 17 September 2021, and a letter dated 20 April 2022 have been submitted to demonstrate that the appellant of Appeal A was disputing the premises' Council Tax. However, the letter and email pre-date the Council's evidence. Furthermore, no evidence has been provided to clarify whether the Council Tax dispute was resolved in the appellant's favour, nor have I been provided with Council Tax bills for the premises since the appellants purchased it.
15. The letter dated 20 April 2022 from the appellant of Appeal A also states that they pay for a single insurance policy that covers the whole premises; the landlord maintains the whole property; the landlord provides all utilities and furniture; and the garage is used as storage by all tenants. However, none of these matters demonstrate that the premises was occupied as an HMO rather than two flats.
16. A letter has been provided from Foster Games Estate Agents dated 17 August 2023. It states they have been letting the premises since it was bought by the appellant of Appeal A on 2 November 2010. They also assert that the kitchen was on the first floor and has not been moved or altered over the last 13 years. However, the letter does not state how the premises was let, and no tenancy agreements have been provided. Furthermore, the provision of a kitchen to the first floor does not demonstrate that the alleged breach has not occurred, nor does it corroborate that there was only one kitchen in the premises.
17. Taking all these factors together, on the balance of probability, the matters alleged in the EN as varied had occurred as a matter of fact. The appeals on ground (b) therefore fail.

Conclusion

18. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the EN with variations.

A Berry

INSPECTOR