



Appeal Decision

Site visit made on 9 December 2025

by **V Bond LLB (Hons) Solicitor (Non-Practising)**

an Inspector appointed by the Secretary of State

Decision date: 07th January 2026

Appeal Ref: APP/A5840/C/24/3354856

96 Goodrich Road, LONDON, SE22 0ER

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Mohammad Nawaz against an enforcement notice issued by the Council of the London Borough of Southwark.
 - The notice was issued on 2 October 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the Land to nine dwellings within use class C3 ("the Unauthorised Development"), and the erection of a dormer roof extension over the main and outrigger roof slopes.
 - The requirements of the notice are: 5.1 Cease the use of the Land as more than one C3 dwelling; 5.2. Remove from each of the nine flats the kitchen worktop, sink, kitchen cupboards and splash backs, and plumbing connections for the kitchen sink and washing machines; 5.3. Remove from each of the nine flats the electrical sockets, switches and connections in the kitchen area at worktop level; 5.4. Remove from each of the nine flats the ensuite bathroom including the shower, toilet, hand basin, towel rail, partition wall(s), doors and plumbing connections; 5.5. Return the property to either its layout before the breach occurred, or as shown in plans 1785A-P-01 Proposed Ground Floor Plan and 1785A-P-02 Proposed First Floor Plan - approved under planning permission ref 23/AP/3048; 5.6. Demolish and remove the dormer roof extension over the main and outrigger roof slopes and return the roof to its condition before the breach occurred; and 5.7. Remove from the Land all materials, rubbish and debris resulting from the carrying out of the above steps.
 - The period for compliance with the requirements is: Six (6) months.
 - The appeal is proceeding on the grounds set out in section 174(2) (f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is corrected by in paragraph 5 deletion of each instance of the word 'flats' and substitution in each instance with the word 'dwellings'. Subject to the corrections, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. The appellant's representations state that 'The current property is a large HMO' and 'not a block of flats'. Class C4 of the UCO¹ defines a house in multiple occupation (HMO) by reference to s254 of the Housing Act 2004². Per each of the Class C4 applicable tests³, a property is not in HMO use if all residential units constitute 'self-contained flats', defined as a separate set of premises in which toilet, personal washing and cooking facilities are available for the exclusive use of its occupants.
3. Each residential unit at the appeal property has an en-suite bathroom and, while cooking facilities were not seen in each unit at my site visit, the Council's evidence

¹ Town and Country Planning (Use Classes) Order 1987

² The definition relates to HMOs in use by not more than six residents but is relevant to assessment of whether use is as a 'large' sui generis HMO

³ i.e. excluding the test related to s257 converted blocks of flats, which are specifically excluded from Class C4

indicate the presence of these in occupied units in the time leading up to issue of the notice, with the appellant explaining that cooking facilities were supplied by a Company Let tenant to sub-tenants in occupation⁴. The LPA's evidence also indicates that the ground floor kitchen was not in practice a shared facility relied upon by occupants. All of the units therefore represented self-contained flats and so the property arrangement did not represent a HMO. Rather, the physical layout, facilities within each unit and actual use clearly indicated use as separate dwellings which provided facilities for day-to-day private domestic existence.

4. At my site visit, access to one of the ground floor dwellings was not available. Nevertheless, in view of the available evidence and my site inspection observations, I am satisfied that I can adequately assess the appeal and neither party expressed any objection to this approach at the site visit.

The Notice

5. The description of the breach in the allegation should correspond to the description used in the requirements. I shall therefore for clarity correct references in requirements to 'flats' so that this corresponds to the term 'dwellings' used in the allegation. No injustice would result from this correction.

Property layout

6. The appeal property is set over three floors with three self-contained dwellings and a separate kitchen and garden space at ground floor level. There are four self-contained dwellings at first floor level, with an additional two self-contained dwellings on the second floor.
7. Each of the self-contained dwellings has an en-suite bathroom, and an open plan room with kitchen cupboards, sink and worktop space and associated electrical sockets. The appellant's Planning Contravention Notice (PCN) response dated 28 June 2024 indicates that residents had been given 'exclusive use of white goods (fridges and washing machines) inside their rooms'. The separate ground floor kitchen contains two hobs and ovens, two sinks, clothes washing facilities, along with storage cupboards but has no fridge/freezer. Portable cooking facilities, presumably removed from the self-contained dwellings, were noted on top of/within kitchen cupboards at my site visit.

The appeal on ground (f)

8. This ground is that the requirements of the notice exceed what is necessary. Section 173 of the 1990 Act indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. The first is to remedy the breach of planning control which has occurred; the second is to remedy an injury to amenity which has been caused by the breach.

Requirements related to the material change of use (MCU)

9. Requirement 5.1 of the notice is for the MCU to cease and its purpose is clearly to remedy the breach of planning control. Requirements 5.2 to 5.5 stipulate removal of kitchen and bathroom facilities from each of the flats and restoration of either the layout prior to the breach or the layout shown on planning permission reference 23/AP/3048 approved plans (with the effect that a single storey extension which

⁴ Albeit without permission of the Landlord

facilitated the MCU could remain). These steps thus are for the purpose of remedying the breach by restoring the land to its condition prior to the breach taking place⁵ i.e. to a layout as a single Class C3 dwellinghouse.

10. A notice that alleges a MCU may properly require the removal of works integral to and solely for the purpose of facilitating the unauthorised use even if the works do not constitute development. The appellant has not advanced any case that the installation of bathrooms, kitchenettes and associated works and changes to the property's internal layout were for a lawful use. Rather it appears that these works were integral to and facilitated the MCU.
11. The appellant proposes that the requirements be altered to allow for reduction in the number of 'bedrooms' to a maximum of six⁶, provision of a living space on the first floor, with a suggestion also that communication be made to tenants that cooking facilities are not permitted in the 'bedrooms' (with related restriction in tenancy agreements), along with 'periodic monitoring' by the 'on-site HMO manager'. Proposed plans are submitted detailing the appellant's proposals for what is considered to represent a Class C4 HMO arrangement.
12. There is no appeal on ground (a) and the purpose of the requirements is to remedy the breach of planning control. The appellant's proposals would mean that the property would not be restored to its previous condition as a Class C3 dwelling and so the breach would not be remedied. As a lesser step that would not remedy the breach, this cannot be accepted through ground (f).
13. I acknowledge that deemed planning permission is granted for a MCU from Class C3 to a Class C4 HMO⁷. However, to benefit from this PD right, the property would first need to revert to a lawful use as a single dwellinghouse. Varying the notice per the appellant's proposed scheme would thus potentially facilitate a further breach if there were a change of use from nine dwellings to a Class C4 HMO. The six month compliance period would though allow adequate time for the appellant to explore the possibility of an alternative scheme.

Requirements related to dormer roof extension

14. As regards the breach constituted by the dormer roof extension, the notice requires demolition of the dormer roof extension and restoration of the roof to its previous condition with the effect that the breach of planning control would be remedied.
15. The appellant proposes that the requirements be modified to enable the roof extension to be altered to comply with dimensions specified in a previous lawful development certificate⁸. This would not though remedy the breach of planning control and in any event the proposed reduced size dormer window would not be lawful unless the property is in use as a single dwellinghouse.
16. Further, the relevant Class B permitted development right⁹ is granted subject to conditions and so it would not be appropriate to vary the requirements to enable a reduced size dormer window since the modified development would be permitted by virtue of s173(11) which would not allow for the imposition of conditions. If the

⁵ Whether in whole or part depending upon the alternate options in requirement 5.5

⁶ With reference to Class C4 of the UCO

⁷ Per Article 3(1) and Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015

⁸ Ref: 21/AP/1594

⁹ In Schedule 2, Part 1, Class B of the GPDO

appellant obtained a grant of planning permission in respect of a reduced size dormer window, s180(1) of the 1990 Act means that the requirements of the notice would cease to have effect so far as they are inconsistent with that permission. Again, the appellant has the opportunity to explore this within the six month compliance period.

17. Drawing these matters together, I am satisfied that the requirements represent the minimum necessary to remedy the breaches and are proportionate in this sense. The ground (f) appeal fails for the reasons explained.

The appeal on ground (g)

18. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The notice specifies a six month compliance period and no alternative is suggested by the appellant, nor is any detailed information given to support the contention that the compliance period is unreasonable. In my view, the compliance period would allow adequate time for tenants to seek alternative accommodation and for the requirements to be complied with. The ground (g) appeal accordingly fails.

Conclusion

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

V Bond

INSPECTOR