



Appeal Decision

by **Martin Allen BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 January 2026

Appeal Ref: APP/N5090/C/24/3357909

644 High Road, London, N12 0NL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Hussein Hassani against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice was issued on 12 November 2024.
 - The breach of planning control as alleged in the notice is, without planning permission, the material change of use of the rear extension from restaurant into self-contained flats.
 - The requirements of the notice are to:
 1. Cease the use of the rear extension as residential.
 2. Restore the property to the state it was prior to the breach by implementing the approved layout drawing nos M1/220822/PL6 (floor plan) and M1/120522/PL7 (elevation) as granted under permission ref 22/6014/FUL dated 28.02.2023.
 3. Permanently remove all kitchen facilities (units, sinks, cookers, and food preparation areas) from the extension.
 - The period for compliance with the requirements is 6 months after the notice takes effect.
 - 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 varied by:
 - the deletion of requirement 2 and the substitution thereof with:

“2. Restore the internal layout of the property to the state in which it was prior to the breach by implementing the approved layout drawing no M1/220822/PL6 (floor plan) as granted under permission ref 22/6104/FUL dated 28/02/23.”
 - the deletion of 6 months and the substitution with 9 months as the time for compliance.
2. Subject to the variations, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

3. As the appeal is proceeding under grounds (f) and (g) only, I consider that it is not necessary for me to visit the site. The views of the main parties have been sought, and no objection has been raised to this approach.

Ground (f)

4. The appeal on ground (f) is that the steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections. It is essential to understand the purpose of the notice. Under s173(4) of the Act, the purpose of a Notice can be: (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any

use of the land or by restoring the land to its condition before the breach took place, or (b) to remedy any injury to amenity which has been caused by the breach.

5. On reading the enforcement notice as a whole, it is clear that the purpose of the notice is to remedy the breach of planning control that has occurred, in that it requires the use to cease, for facilitating works to be removed in their entirety, and requiring that the development complies with the terms of a previously granted planning permission. The Council confirm this in its statement of case.
6. The appellant contends that they consider it necessary to only cease the residential use and remove all but one of the kitchens that have been installed. However, the appellant also accepts that the installation of the kitchens has facilitated the unauthorised use. While it may be possible for a kitchen to be installed within the lawful use of the site, this is not the relevant test. In order to restore the land to its condition prior to the unauthorised use occurring, it is necessary for all kitchens to be removed.
7. The appellant further asserts that it is not necessary for the property to be restored to the layout and elevations as shown in the drawings of the previously approved planning permission. While the notice refers to the change of use of the property and not specifically to the physical changes to the property that have been undertaken, they have clearly been undertaken to facilitate the unauthorised use and are therefore 'part and parcel' of that use. In respect of the layout of the property, it is both reasonable and proportionate for the internal partitions that have been erected to be removed, in order to remove the facilitating works that have enabled the unauthorised change of use.
8. In respect of the external alterations, the information before me indicates that where the rear elevation previously approved under a planning permission included a single door and four windows, it now includes two doors and two windows. The Council accepts within its statement of case that this existing arrangement is not unacceptable, and this arrangement could be retained. I shall therefore amend the requirements of the notice to omit the requirement to change the elevation of the building. The appeal under ground (f) succeeds to this limited extent.

Ground (g)

9. An appeal under ground (g) is that the period for compliance with the requirements of the notice falls short of what is reasonable. The notice provides a period of 6 months for compliance. The appellant sets out that in order to comply with the notice it will be necessary to serve notice on the tenants that are occupying the unauthorised units, and should they be unwilling to leave then further time would be needed to evict them. The appellant requests that the period of compliance be extended to 12 months.
10. While I note that the notice was issued in excess of a year ago, until the appeal is decided the appellant would be uncertain of the requirements to comply with the notice. I am also conscious that despite the Council indicating that it does not believe the units to be occupied at the time the notice was served, that this could have changed in the meantime. While I consider that to extend the period of compliance to 12 months would be excessive, I find that a period of 9 months would strike the appropriate balance between allowing a reasonable and

proportionate period of time to remove tenants and undertake the requirements of the notice, and the interests of remedying an unauthorised and harmful development.

11. Therefore, the appeal on ground (g) succeeds to this extent.

Conclusion

12. For the reasons given above, I conclude that the requirements of the notice are excessive and the period for compliance falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. The appeals on grounds (f) and (g) succeed to this extent.

Martin Allen

INSPECTOR