



Appeal Decision

by **Richard S Jones BA(Hons), BTP, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 March 2026

Appeal Ref: APP/Z5060/C/23/3332670

Land and premises at 74 Park Avenue, Barking, IG11 8QX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Jaweed Ali Butt against an enforcement notice issued by the Council of the London Borough of Barking & Dagenham.
 - The notice was issued on 12 October 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised material change of use of a single-family dwelling house to a House of Multiple Occupation.
 - The requirements of the notice are to:
 - Cease the use as a house of multiple occupation.
 - Remove all alterations and fixtures enabling the conversion to a house of multiple occupation.
 - Remove all consequent waste material from the premises.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(e), (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:
 - deleting the second requirement in section 5 and its substitution with “Remove all alterations and fixtures facilitating the material change of use to a house of multiple occupation”.
2. Subject to the correction, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

3. The parties were advised that I was to conduct a site visit on 4 February 2026. However, the appellant was not in attendance to provide access. Having reviewed the case file further and having regard to the grounds of appeal, I am satisfied that I am able to determine the appeal on the basis of the evidence submitted, without the need to see inside the property. That is consistent with the appellant’s position, as indicated in the appeal form.

The Enforcement Notice

4. An enforcement notice must be drafted fairly to tell a recipient what he has done wrong and what he must do to remedy it¹. As held in *Miller-Mead*², a notice may be a nullity if it is hopelessly ambiguous and uncertain.

¹ S173 of the Town and Country Planning Act 1990 as amended (the 1990 Act)

² *Miller-Mead v MHLG* [1963] 2 WLR 225

5. In this case, the breach of planning control as alleged in the notice is, without planning permission, the unauthorised material change of use of a single-family dwelling house to a house of multiple occupation (HMO).
6. The first requirement is to cease the use as an HMO. The appellant's argument, that it is unclear how to cease the use, is clearly without merit and is borderline unreasonable. How do you cease anything? You stop. In this case, you stop using the property as an HMO. It is hard to conceive how that requirement could be made clearer.
7. The second requirement is to remove all alterations and fixtures enabling the conversion to an HMO. The appellant argues that he cannot comply with that requirement as it is unclear which alterations and fixtures are considered by the Council as enabling. However, it is the appellant who will be best placed to know what alterations have been made and which fixtures have been added to facilitate the use as an HMO.
8. Nevertheless, to tally and logically follow from the breach, the requirement should be corrected to "Remove all alterations and fixtures facilitating the material change of use to a house of multiple occupation". I am able to make that correction under the powers transferred to me by s176(1)(a) of the 1990 Act, without injustice to any party.
9. The third requirement is to remove all consequent waste material from the premises. By any reasonable reading, that clearly tells the appellant that he is to remove all waste arising from complying with the preceding requirements.
10. The appellant states that if the enforcement notice "does not extend to the hardcore and concrete base, then it can form no part of an EN or any decision on the EN and it would thus be inappropriate and contrary to law for the council to require that the materials comprising the base be removed." However, I can fathom no reason why remedying the breach of planning control in this case would require the materials comprising the base to be removed. There is absolutely no suggestion that it does.
11. I do not therefore find the enforcement notice to be hopelessly ambiguous or uncertain so as to amount to a nullity. The appellant's arguments to the contrary have no merit whatsoever. Rather, I find that the enforcement notice specifies with sufficient clarity the alleged breach of planning control and the steps required for compliance. I have found no defects that would render it invalid.
12. As part of his ground (e) appeal the appellant has referred me to an appeal decision where the inspector found an enforcement notice to be a nullity on the basis that it was not properly authorised³. However, having regard to relevant caselaw, the approach taken by the Inspector would appear to be incorrect⁴, as the notice must be defective on its face to be a nullity, and the route for challenging an enforcement notice issued without authority is a claim for judicial review.

³ Appeal Ref: APP/Q5300/C/15/3006366

⁴ See *Beg & Others v Luton BC* [2017] EWHC 3435 (Admin), [2018] JPL 703; *Koumis v Secretary of State for Communities and Local Government* [2015] J.P.L. 682; and *R v Wicks* [1996] JPL 743; [1997] JPL 1049 (HoL)

The appeal on Ground (e)

13. An appeal on ground (e) is that the notice was not properly served on everyone with an interest in the land. The onus lies with the appellant, rather than the Council, to make his case on the balance of probabilities.
14. I note the appellant's comments that the Council did not properly serve a previously issued enforcement notice, but that is not a matter for this appeal. For what is before me, the appellant does not identify any particular issue with the service of the appeal enforcement notice.
15. Indeed, the enforcement notice lists the persons who were served with a copy of it, including the appellant, at the appeal site address. Against that, the appellant does not claim that he or any other person was not served with a copy of the notice when they ought to have been.
16. In any event, s176(5) of the 1990 Act provides that any failure to serve may be disregarded if the appellant has not been substantially prejudiced. In that regard, the appellant has evidently been able to make an appeal against the notice before it came into effect.
17. As part of the case made under ground (e), the appellant asserts that the Council must show proper authorisation to issue the enforcement notice. However, as explained above, for the purposes of this appeal, that is not the case.
18. I therefore conclude that the appellant has not demonstrated that the notice was not properly served, or that any such failure gave rise to substantial prejudice. The appeal on ground (e) fails.

The Appeal on Ground (f)

19. An appeal on ground (f) is that the requirements of the enforcement notice are excessive to remedy the breach of planning control or, as the case may be, the injury to amenity caused by the breach.
20. In this case, having regard to the breach and the requirements set out and discussed above, the purpose of the notice must be to remedy the breach of planning control.
21. The appellant asserts that the requirements are ambiguous and that issues of ambiguity and uncertainty should also be taken into consideration when assessing the ground (f) appeal. However, I have considered those arguments above and have not found them persuasive. In any case, the appeal on ground (f) can only succeed if it is shown that the steps set out in the notice are excessive for the purposes of remedying the breach.
22. To that end, the appellant has not shown that there are any other lesser steps that would remedy the breach of planning control and I find that the requirements of the notice (as corrected) tally and logically follow from the breach and are not excessive for the purposes of remedying the same.
23. The Council states that the lawful use of the property is a single-family dwelling house. The requirements of the notice do not prevent, and nor should they, the appellant from reverting to that use. Whilst the appellant seeks to highlight that the notice does not require him to use the property as a single-family dwelling, that will

be a matter for him, as an enforcement notice cannot require reversion to a lawful use.

24. The appeal on ground (f) fails.

The Appeal on Ground (g)

25. The ground (g) appeal is that the six months given to comply with the notice is too short.

26. The appellant requests a period of 12 months on the basis that he must find a suitably qualified contractor for the work, and because he needs suitable weather to carry out the same. However, in the absence of any evidence to suggest difficulties in that regard, I see no reason why a contractor could not be secured in time to carry out the works within six months, particularly given the likelihood that most, if not all of the work, would be internal, so would not be weather dependent.

27. The appellant further raises the issue of uncertainty regarding the works but for the reasons explained above, he will be best placed to know what they entail, and it is unlikely that six months would be too short for those purposes. A period of 12 months is therefore excessive and unjustified

28. The appellant makes reference to the Human Rights Act 1998. Article 1 of the same concerns the protection of property whilst Article 8 deals with the right for respect for family life and the home. These are qualified rights and involve balancing the fundamental rights of the individual against the legitimate interests of other individuals and the wider public interest. The concept of proportionality is crucial.

29. The appellant argues that the Council has not struck a fair balance between the protection of the rights of the owner and occupiers and the objective of enforcing proper planning control in the wider public interest, and that six months is not reasonable and proportionate in the circumstances. The appellant says 10 months is more suitable (as opposed to the 12 months requested earlier).

30. However, I am satisfied that a six-month period provides sufficient time for occupants to look for alternative accommodation and is reasonable having regard to the reasons for issuing the notice. I am also satisfied that any interference with the owner's and occupants' human rights is proportionate, having regard to the public interest in seeking compliance with planning law and policy.

31. Moreover, the appellant has not produced any tenancy agreements to show that six months would be insufficient to provide the required notice period for occupants, nor is it shown that eviction proceedings are likely to be required.

32. The appeal on ground (g) fails.

Conclusion

33. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction.

Richard S Jones

INSPECTOR