Planning Inspectorate

Appeal Decision

Site visit made on 8 April 2026

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th April 2026

Appeal Ref: APP/N4720/C/25/3370276
Land at 388 Harrogate Road, Moortown, Leeds, LS17 6PY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Joao Figueiredo of Music Lab against an enforcement notice issued by Leeds City Council.
- The notice was issued on 23 July 2025.
- The breach of planning control as alleged in the notice is: without planning permission, the making of a material change of use to a place for music tuition (Class F1).
- The requirements of the notice are to: cease the use of the premises for the purposes of music tuition (Class F1).
- The period for compliance with the requirement is: three months.
- The appeal is proceeding on the grounds set out in section 174(2)(b) and (c) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeal is dismissed and the enforcement notice is upheld.

Procedural Matters

1. The appellant's submissions confirm that the use of the building for music tuition has ceased and the company has vacated the premises. As such, an accompanied visit to view the internal use across the different floors was not necessary. At the time of my unaccompanied visit, I observed that the premises were in the process of being changed to a skin clinic. However, the notice relates to the matters that were occurring at the time it was issued. I have not been advised that the notice has been withdrawn, and the appellant has requested that the appeal be determined.

2. Although only ground (c) was ticked on the appeal form, the appellant states that no breach of planning control has occurred as a matter of fact. This is on the basis that the appellant is firmly of the view that the use falls within Class E, rather than Class F1 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (UCO), as stated in the notice. I have therefore treated the appeal as also being made on ground (b), albeit I have considered both grounds together given the overlapping similarities.

The appeal on grounds (b) and (c)

3. To succeed on ground (b) the appellant must demonstrate that the matters alleged in the notice have not occurred, and to succeed on ground (c), the appellant must demonstrate that, on the balance of probability, the matters alleged in the notice do not constitute a breach of planning control. These are legal grounds and the burden of proof is on the appellant.

4. Section 55(1) of the Town and Country Planning Act 1990 (the Act) sets out the meaning of development, which includes the making of any material change in the use of any building. Section 55(2) of the Act lists some exceptions, which include

at (f) *“in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class”.*

5. The change of use to a place for music tuition is not disputed by the appellant. However, there is disagreement between the parties as to whether the change of use was material and thus constituted development requiring planning permission, having regard to S55(2)(f) of the act. The Council has also alleged that regardless of use class, the intensification of the use of the premises would result in a material change of use.

6. Whether there has been a material change of use is a matter of fact and degree to be assessed in relation to the specific circumstances of each case. The test to be applied in determining whether a material change of use has occurred is whether the overall definable character of the planning unit has changed. This will include considering matters such as any notable increases in disturbances to neighbours caused by the frequency or timing of visitors or noise.

7. It is a matter of common ground that prior to the alleged breach of planning control taking place, the premises were occupied by a travel agency. I have very little evidence as to which part or parts of the premises were occupied for this use, and I have not been made aware of any planning conditions restricting any previous uses or their operating hours. Whilst the planning history set out in the Council’s statement indicates that planning permission to convert the vacant first and second floors of the building into two flats was granted in August 2020, there is no evidence to suggest whether or not that permission was implemented, or to confirm any lawful use of the vacant first and second floors. The Council’s statement also says that the previous use of the building was a travel agency with office/storage above, from before 2008.

8. Based upon the evidence before me, it is unlikely that the upper floors of the building, if they were in use at all, were accessed or used by customers when the premises were operating as a travel agency. I consider it more likely that they were ancillary to the primary use of the premises, which taken as a whole, would therefore comprise a single planning unit occupied by a travel agency and falling within Class E of the UCO.

9. The appellant refers to Class E(e) of the UCO and states that this includes “provision of education”. This is not the case. Class E(e) refers to medical or health services not attached to the residence of the practitioner. The provision of education falls within Class F1(a).

10. The appellant also compares the use to, amongst other things, martial arts academies, yoga schools, gym and dance studios, which would in my view fall within Class E(d) indoor sport and recreation. I do not consider music tuition to fall within Class E(d), which relates principally to participation in sport and fitness related activities, despite often involving an element of teaching, coaching or instruction.

11. Whilst I acknowledge that the business would provide a commercial service to visiting/paying customers and could therefore potentially be considered to fall within Class E(c)(iii) *“any other service which it is appropriate to provide in a commercial, business or service locality”,* whether the service is appropriate in

such a locality will be dependent upon the operational details and circumstances in each case.

12. Class E generally excludes high level noise generating uses, and therefore whilst music tuition provided on a one to one basis in a single room could in some circumstances be considered to fall within Class E, multiple staff, teaching groups of people or individuals playing instruments or singing, in multiple rooms as shown on the submitted plan, would in my view fall outside the scope of Class E.

13. In reaching this view, I have had regard to the fact that although the appellant states that lessons typically consist of afternoon and early evening teaching blocks, it has not been disputed that the company website advertises opening 48 weeks per year, closing only for two weeks in summer and two weeks over Christmas/New Year, or that lessons take place at weekends. Correspondence from a neighbour, states that weekend classes start early in the morning, and complaints made to the Council's Environmental Health department have been investigated and determined to be a statutory nuisance under the Environmental Protection Act, resulting in a Noise Abatement Notice being served.

14. The appellant's own evidence states that the use is educational. The main purpose of the business is to teach and provide extracurricular instrumental and vocal tuition to individuals and small groups by appointment. The fact that this is provided outside of a school or institutional setting does not alter my view that the primary use is educational.

15. Reference numbers have been provided for two appeal decisions, which the appellant states support his case that similar uses fall within Class E. However, these reference numbers do not appear to exist or relate to comparable cases, and copies of the decisions have not been supplied. I note the comments relating to the lease and tenancy agreement of the building, but these are not relevant to my determination of the planning use.

16. Based upon the evidence before me, I consider the music tuition use to fall within Class F1 of the UCO. Therefore, at the time the notice was served, a material change of use from Class E to F1 of the UCO had occurred.

Conclusion

17. For the reasons given above, I conclude that, on the balance of probability, a material change of use of the property has occurred and therefore the matters stated in the notice do constitute a breach of planning control. Accordingly, the appeal should not succeed on either grounds (b) or (c), and I shall uphold the notice.

Formal Decision

18. The appeal is dismissed and the enforcement notice is upheld.

R Bartlett

INSPECTOR