



Appeal Decision

Site visit made on 21 May 2026

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 May 2026

Appeal Ref: APP/V2004/C/25/3359233

113 Spring Bank, Hull, HU3 1BH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Mahmood M Mohammadi against an enforcement notice issued by Kingston-Upon-Hull City Council.
 - The notice was issued on 3 December 2024.
 - The breach of planning control as alleged in the notice is without planning permission: a) the unauthorised development to the rear of the Premises by way of creating more flats and extending existing one; and b) unauthorised shop front alterations.
 - The requirements of the notice are to (i) remove all the unauthorised rear development, as shown highlighted in red in fig. 1a in the Schedule to the notice and revert it to the previous state as shown in fig. 1b; and (ii) remove the changes to the shop frontage as per fig.2 in the Schedule and revert it to the previous shop front, as per fig. 3; and (iii) remove from the Premises all building materials and rubble arising from compliance with requirement (i) and (ii) above.
 - The period for compliance with the requirements is 6 months from the date the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (c), (d), (e), (f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

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

Procedural Matters

2. The appellant has submitted the same appeal form for this appeal as for appeal reference APP/V2004/C/25/3359093. I sought clarification from the appellant about this matter as part of the determination of this appeal. He confirmed on 27 March 2026 that *'I can confirm that I wish to rely on the same grounds of appeal submitted for appeal reference 3359093 for appeal 3359233'*.
3. On my site visit, the appellant could not give me access into the two rear buildings. He indicated that this was not possible as he had not served notice on the tenants. Nonetheless, the main parties did agree on the site visit that each contained two flats.

Ground (e) appeal

4. The appeal on ground (e) is made on the basis that copies of the notice were not properly served on everyone with an interest in the land as required by section 172 of the Act. Section 172(2) of the Act provides that a copy of an enforcement notice shall be served on the owner and occupier of the land to which it relates, and any other person having an interest in the land, including mortgagees, tenants, and sub-tenants, being an interest which, in the opinion of the local planning authority, is materially affected.

5. The appellant's claim on ground (e) is that the address of the notice is 113 Spring Bank *'which is classified as a commercial property and operates as a shop location'*. He states that 113A Spring Bank is a residential complex and *'has been in use as such since I purchased the property'*. The appellant says that the building was *'purchased in 2022'*.
6. The Council's evidence, which has not been disputed by the appellant, is that Land Registry title notes refer to the property as 113 Spring Bank only, and that Council tax records indicate that all the flats are associated with 113 Spring Bank, for example *'Flat 2, 113 Spring Bank'*. The evidence is that only one flat is associated with 113A Spring Bank and which is the appellant's billing address and the only record which refers to this address. While this is not a matter that is directly relevant to the ground (e) appeal, the appellant's evidence is not sufficiently precise or unambiguous to counter the Council's evidence above.
7. On the evidence that is before me, I am satisfied that 113 Spring Bank is the correct postal address from the point of view of the breach of planning control. I do, however, acknowledge that at some point the appellant has referred to *'Mahmood Apartments 113A Spring Bank'* on the shop front fascia and on a door at the front of the Premises. Moreover, and, in any event, it is clear from the evidence that the appellant is fully aware of what part of the Premises the breach of planning control is concerned with and which falls within the red edged site location plan attached to the notice.
8. In respect of the appeal made on ground (e), it is noteworthy that the appellant does not actually make a claim that the notice was not properly served in accordance with the requirements of section 172(2) of the Act. Indeed, the evidence, in the form of the Council's certificate of service (including photographs), demonstrates that a copy of the notice was emailed directly to the appellant and that separate copies were also posted to the occupier of each flat. I therefore conclude that the ground (e) appeal fails.

Ground (b) appeal

9. The appeal made on ground (b) is that the matters comprising the alleged breach of planning control have not occurred. The onus is on the appellant to make a case on the legal grounds of appeal.
10. The appellant makes the claim that he pays Council tax. That may be the case for 113A Spring Bank, but the undisputed evidence from the Council is that for Flats 1-7 they are paid by separate residents and that the address is 113 Spring Bank.
11. In any event, the payment of Council tax is not in itself of relevance to the consideration of the ground (b) appeal. The onus is on the appellant to make a case to demonstrate that when the notice was issued, the alleged breach of planning control had not occurred. The appellant's evidence does not demonstrate with sufficient precision that the alleged breach of planning control had not occurred when the notice was issued. Therefore, the ground (b) appeal fails.

Ground (c) appeal

12. The appeal made on ground (c) is that the matters alleged do not constitute a breach of planning control. The onus is on the appellant to make a case on the legal grounds of appeal.

13. The appellant claims that ‘applications’ have been submitted to the Council in respect of the breach of planning control. I do not have details of the submitted applications but, in any event, the appellant does not dispute the Council’s comment that such applications were invalid owing to the requirement for the submission of additional information.
14. The breach of planning control constitutes an act of development by virtue of section 55 of the Act. This relates to the development to the rear of the Premises and in respect of the alterations to the shop front. Indeed, the shop front alterations have materially altered the external appearance of the building.
15. The appeal development falls within the Spring Bank Conservation Area. Having regard to this designation, coupled with the position and size of the development, it does not fall to be permitted development under any part of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Planning permission has not been approved for the breach of planning control.
16. For the above reasons, I conclude that the ground (c) appeal fails.

Ground (d) appeal

17. The appeal made on ground (d) is that at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. In an appeal against an enforcement notice on ground (d), the burden of proving relevant facts is on the appellant, and the relevant test of the evidence is on the balance of probability.
18. The evidence is that the appellant purchased the property in 2022. He states that *‘since acquiring the property, I have made a few changes to renovate and improve it. However, these changes were not intended to alter the existing classifications but to enhance the property’s condition and usability’*. The appellant has not provided precise and unambiguous evidence to substantiate the claims made above.
19. The Council’s evidence is that the unauthorised operational development to the rear of the premises was not substantially complete until 2024. The appellant has not provided precise and unambiguous evidence to refute this claim.
20. In respect of the unauthorised shop front, the Council has referred me to Google Earth Street-View imagery which shows that it was in place on 21 January 2021. The appellant does not provide any precise and unambiguous evidence in terms of when the shop front alterations were substantially complete.
21. The notice was issued on 3 December 2024. The onus is on the appellant to demonstrate that the shop front alterations have been in place for a period of at least four years and hence were immune from enforcement action when the notice was issued. The appellant has not provided precise evidence to demonstrate that the shop alterations were substantially complete on 3 December 2020. Consequently, and, on the balance of probability, I do not find that the shop front alterations are immune from enforcement action by virtue of section 171(B) of the Act.
22. For the above reasons, and, on the balance of probability, I conclude that when the notice was issued it was not too late to take enforcement action in respect of the breach of planning control. Therefore, the ground (d) appeal fails.

Ground (f) appeal

23. The appeal on ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control or to remedy any injury to amenity which has been caused by any such a breach.
24. The appellant considers that the requirement is excessive and that instead his submitted planning applications are considered and, if needed, that the submitted plans are amended. I do not have details of any of the submitted planning applications, or any details of an alternative development proposal. Moreover, such considerations would be relevant to the consideration of a ground (a) appeal and a deemed planning application. A ground (a) appeal is not before me.
25. The purpose of the notice is to remedy the breach of planning control by restoring the land to its condition before the unauthorised development took place. In this regard, the requirements of the notice do not exceed what is necessary to remedy the breach of planning control. Indeed, they require the unauthorised rear development to be removed (as shown in figure 1a) and the unauthorised shop front to be removed (as shown in figure 2) and the land to be restored to its condition before the breach took place (as shown in figures 1b and figure 3 respectively).
26. For the above reasons, I conclude that the ground (f) appeal fails.

Ground (g) appeal

27. The appeal on ground (g) is made on the basis that the period specified in the notice in accordance with section 173(9) of the Act falls short of what should reasonably be allowed.
28. The appellant makes the claim that a period of 12 months as distinct from 6 months is needed so that he can engage further with the Council and to prepare revised planning applications. The evidence is that while planning applications may have been submitted to the Council, they were not registered. There is no indication that the appellant has sought to provide the necessary information to ensure that any such planning application can be registered. In the absence of a ground (a) appeal and a deemed planning application, it must be conclusively presumed that the planning harm has been caused as outlined in the reasons for issuing the notice.
29. I acknowledge that upholding the notice would result in existing residents being made homeless. In this regard, it is necessary that I have regard to Article 8 of the European Convention on Human Rights, as incorporated into the Human Rights Act 1998, which states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial.
30. In this case, I find that a period of six months strikes a reasonable and proportionate balance between bringing the harmful development to an end in the public interest, affording a reasonable amount of time for existing residents to find alternative accommodation, and ensuring full compliance with the requirements of the notice. For the above reasons, I conclude that the ground (g) appeal fails.

Conclusion

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

D Hartley

INSPECTOR