



Appeal Decision

No Site Visit

by **M. P. Howell BA (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 May 2026

Appeal Ref: APP/N5090/C/26/3377795

Land at 69 Greyhound Hill, London NW4 4JN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Uzi Cohen (Triple VVV (8) Ltd) against an enforcement notice issued by the Council of the London Borough of Barnet.
- The notice was issued on 7 January 2026.
- The breach of planning control as alleged in the notice is without planning permission, the making of a material change of use of land in the rear garden of the property (where now stands a single storey building) to use as a separate self-contained dwellinghouse.
- The requirements of the notice are to:
 - 1 Cease the use of the building as a dwellinghouse.
 - 2 Restore the land to the state in which it was prior to the breach of planning control by:
 - (i) Removing all kitchen fixtures and fittings from the building, items to be removed to include all kitchen units, cooking facilities, any work tops and food preparation areas and any kitchen sinks and draining boards.
 - (ii) Removing all bathroom fixtures and fittings (including any toilets, hand wash basins, showers and shower trays) from the building.
- The period for compliance with the requirements is: one month.
- 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).

Summary Decision: The appeal succeeds to the extent that the enforcement notice is upheld with variations in the terms set out below in the Formal Decision.

Matters Concerning the Enforcement Notice

1. It is incumbent upon me to put the Enforcement Notice (Notice) in order. I have had regard to my powers under section 176(1)(a) of the Town and Country Planning Act 1990 (1990 Act) to correct any defect, error or misdescription in the Notice or, under section 176(1)(b), to vary the terms of the enforcement notice. In each case, the test is whether the correction or variation would not cause any injustice to the appellant or the Council.
2. The current allegation indicates 'the making of a material change of use of land in the rear garden of the property (where now stands a single storey building) to use as a separate self-contained dwellinghouse', but the first requirement only requires the use of the building as a dwellinghouse to cease. To ensure that the requirements accurately and consistently mirror the wording and scope of the allegation as set out, the requirement should be varied to 'Cease the use of the land in the rear garden of the property (where now stands a single storey building) as a separate self-contained dwellinghouse.'
3. Furthermore, step 2 of the requirements states 'Restore the land to the state in which it was prior to the breach of planning control by' and then mandates the facilities (kitchen and bathroom) to be removed from the building that facilitate the separate self-contained dwellinghouse use. While I have no concerns regarding the

items that need to be removed, the requirement to restore the land to its state before the breach occurred is somewhat confusing, especially as the subsequent requirements do not appear to return the land to its previous condition. As such, to avoid any confusion for the recipient of the Notice, the words 'Restore the land to the state in which it was prior to the breach of planning control by' should be deleted from step 2 of the requirements. The word 'removing' from requirement step 2(i) and (ii) should also be deleted and substituted with the word 'remove'.

4. I canvassed the parties, and the Council indicated that they had no objections to the variations proposed and that there would be no injustice to their case. The appellant indicated that they have no objection, subject to the bathroom facilities being allowed to be retained for purposes incidental to the main house.
5. I have had regard to the appellant's comments; however, the matter raised regarding the retention of the bathroom facilities will be dealt with separately as part of the appeal on ground (f). In my judgement, the variations suggested ensure the requirements mirror the wording of the allegation and still remedy the breach of planning control. The requirements are also clearer and not more burdensome for the appellant. As such, this is a situation where I can use my powers to correct these errors in the Notice without causing injustice to either the appellant or the Council.
6. As the matters concerning the Notice above may be affected by the ground (f) appeal, I will confirm the varied wording of the Notice in the Formal Decision below.

Preliminary Matters

7. Due to the specifics of this case, it was decided that a site visit was unnecessary, provided that the missing information regarding a refused Lawful Development Certificate (LDC) application was submitted¹. The main parties were informed that no site visit would take place, and no additional comments or objections were received regarding the appeal being determined in this manner.

The Appeal on Ground (f)

8. To succeed on this ground, I must be satisfied that the steps required to comply with the Notice exceed what is necessary to remedy the breach of planning control or, alternatively, to address any injury to amenity caused by the breach.
9. The appeal on ground (f) relates specifically to step 2 (ii) of the requirements, which mandates the removal of all bathroom fixtures and fittings from the building, including toilets, hand wash basins, showers, and shower trays. The appellant contends that since the Notice does not require the demolition of the existing building, the remaining structure would be considered incidental to the main property, which is used as a Class C4 House in Multiple Occupation (C4 HMO). The appellant intends to use this space as an office and gym for the occupants of the C4 HMO and wishes to retain the bathroom facilities for this purpose.
10. The appellant contends that it is excessive to require the removal of the bathroom facilities and that retaining them would not undermine the purpose of the Notice. The appellant, therefore, proposes to delete the step that requires the bathroom facilities to be removed. The Council does not contest the appellant's appeal and is agreeable to a variation of the Notice, but it suggests two conditions: one requiring

¹ Council reference 25/0515/191

the removal of the kitchen facilities and another ensuring that the outbuilding is used solely for purposes ancillary to the lawful use of the main property.

11. Section 173(4) of the 1990 Act outlines the purposes that an enforcement notice may aim to achieve: either (a) remedying the breach of planning control or (b) addressing any injury to amenity caused by the breach. The requirements of the Notice clearly indicate that its purpose is to remedy the breach of planning control in accordance with section 173(4)(a) by ceasing the unauthorised use and removing the facilities that enable the use of the land and building as a separate dwellinghouse.
12. I have considered the Council's stance on the ground (f) appeal. However, where no accompanying ground (a) exists and the Notice clearly seeks to remedy the breach, I can only assess whether the requirements exceed what is necessary to remedy the breach. Therefore, without a ground (a), it is not within my authority to grant planning permission for the building and impose conditions requiring the kitchen facilities to be removed and limiting its use for ancillary purposes as the Council has suggested.
13. However, amongst other things, the enforcement regime is intended to be remedial rather than punitive. While the building was not used for purposes related to the main property before it became a dwelling, the appellant can rely on Section 57(4) of the 1990 Act. This section allows for the land to revert to its last lawful use without needing permission when an enforcement notice has been issued for any unauthorised development. Since the land was previously used in connection with the lawful C4 HMO use, it can be utilised for that purpose again without the need for planning permission. Additionally, after complying with the requirements of the Notice, the bathroom facilities could technically be reinstalled in the building without it constituting development, as defined in Section 55(2)(a) of the 1990 Act².
14. Thus, the appellant's proposed lesser steps represent a realistic fallback use for the building with the bathroom facilities, which the Council do not oppose. This approach would still achieve the desired outcome, but at lower cost and with less disruption. For instance, the Notice will still require the unauthorised use as a separate dwelling to cease, and a building without a kitchen would still be functionally subordinate to the main property. The Notice will also remain as a charge on the land, preventing the future use of the land and building as a separate dwelling, unless planning permission is subsequently granted that supersedes the Notice's requirements. As such, the lesser steps represent a less disruptive approach, and the requirements of the Notice are excessive to remedy the breach.
15. The appeal on ground (f) succeeds, and I will vary the Notice accordingly.

The Appeal on Ground (g)

16. An appeal on this ground is that the period specified in the Notice falls short of what should reasonably be allowed. The Notice specifies a compliance period of one month starting from the date the Notice takes effect.

² Section 55 of the 1990 Act- "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land (2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—(a) the carrying out for the maintenance, improvement or other alteration of any building of works which—(i) affect only the interior of the building, or (ii) do not materially affect the external appearance of the building.

17. The appellant has indicated that an eviction notice would need to be served on the existing tenant, and in the event the tenant refuses to vacate the premises, then time is needed for eviction procedures to be followed. It is said that only after the premises are vacant can builders be contracted to start the work and remove the facilities. The appellant has, therefore, requested a 5 month extension to the time for compliance, a total of 6 months. The Council confirms that a 6 month compliance period would be reasonable and appropriate in this case.
18. Having regard to the fact that the tenant will lose their home and the building will need to be empty before the kitchen facilities are removed, I consider that a period of time more than 1 month can be justified. A 6 month period to cease the use as well as remove the kitchen facilities from the building would be sufficient. This time frame would strike an appropriate balance between having to minimise the harm identified and the appellant's need to give notice to the tenant to find alternative accommodation before removing the kitchen facilities.
19. The appeal on ground (g) succeeds. I shall vary the terms of the Notice accordingly.

Conclusion

20. For the reasons given above, I conclude that the requirements of the Notice are excessive to remedy the breach of planning control, and the period for compliance with the notice falls short of what is reasonable. I shall vary the Notice before upholding it. The appeal on grounds (f) and (g) succeed to that extent.

Formal Decision

21. It is directed that the Notice is varied by:

In paragraph 5, Step 1, delete the words 'Cease the use of the building as a dwellinghouse' and its substitution with the words 'Cease the use of the land in the rear garden of the property (where now stands a single-storey building) as a separate self-contained dwellinghouse.'

In Paragraph 5, Step 2, delete the words in their entirety and substitute with the words 'Remove all kitchen fixtures and fittings from the building, items to be removed to include all kitchen units, cooking facilities, any work tops and food preparation areas and any kitchen sinks and draining boards.'

In paragraph 6, the deletion of the number and word '1 month' and its substitution with the number and word '6 months' as the period for compliance.

22. Subject to the variations, the enforcement notice is upheld.

M. P. Howell

INSPECTOR