



Appeal Decision

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2026

Appeal Ref: APP/T5150/C/25/3376818

Land at 144 Stag Lane, London NW9 0QP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr James Monaghan against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice was issued on 20 November 2025.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of four flats and without planning permission, the material change of use of the premises to seven flats.
 - The requirements of the notice are to:
 - Step 1 Demolish four flats and remove all materials and debris, associated with the demolition, from the premises.
 - Step 2 Cease the use of the premises as flats and remove all internal partitions, items, materials and debris, associated with the unauthorised change of use to flats, including the removal of all kitchens, except the ONE on the ground floor, from the premises.
 - Step 3 Restore the internal configuration to the original layout before the unauthorised change of use and unauthorised development took place.
 - 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)(b), (f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Summary Decision: The appeal succeeds in part. The enforcement notice is corrected, varied and upheld in the terms set out in the formal decision.

Preliminary Matters

1. A case management conference (CMC) was held in respect of the appeal. Following this, a number of matters were agreed between the parties and have been set out in a statement of common ground (SOCG). The ground (d) appeal was also subsequently withdrawn.
2. The appeal was submitted with a bundle of plans. These include layout and elevation plans of the former building, which I understand show the main building on the site, and its layout, prior to the breaches of planning control alleged.
3. The bundle of plans also includes drawing number DEC/JB/25-001, which shows what is described as the existing layout of the building on site. This shows four self-contained studio flats on the ground floor and three on the first floor. At the CMC the parties agreed that this plan reflects the layout of the appeal site at present and at the time the notice was issued. Having regard to this, the matters agreed between the parties, and the grounds of appeal made, it was agreed that the appeal could be determined without the need for a site visit.

The notice and the ground (b) appeal

4. An enforcement notice must inform the recipient with reasonable certainty what the breach of planning control is and what must be done to remedy it. If a notice does

not do this, the powers transferred to Inspectors under section 176(1)(a) of The Town and Country Planning Act 1990 as amended (the 1990 Act) allow for the correction of any defect, error or misdescription in the enforcement notice or, under section 176(1)(b), the variation of the terms of the enforcement notice. In each case, the only test is whether the correction or variation would not cause any injustice to the appellant or the local planning authority.

5. In my notes sent to the parties both before and following the CMC, I set out my concerns regarding the notice. At the CMC I also clarified the points made by the appellant with regard to the validity of the notice. Some of these matters were raised by the appellant under their ground (b) appeal, which is that the matters alleged in the enforcement notice, which appear to the Council to constitute the breach of planning control, have not occurred. It is logical to deal with these points raised and my own concerns together in this section of my decision.
6. The breach of planning control alleged is, without planning permission, the erection of four flats and the material change of use of the premises to seven flats.
7. My first concern was with regard to the allegation of a material change of use of the premises to seven flats; that when considered together with the allegation of the erection of four flats, this could suggest that there are now 11 flats within the site.
8. The appellant also suggested that the allegation of the erection of 4 flats is not accurate. Whilst they acknowledge that a new extension to the former building has been erected and that this contains within it 4 separate flats, the flats within it are not all entirely contained within the extension; parts of some of the 4 flats extend into the original building.
9. My second concern was that the enforcement notice does not identify the location within the appeal site of the operation described as 'the erection of four flats'.
10. At the CMC and in the SOCG the parties agreed that the main building on the site, which is a former two storey dwelling, has been extended to the rear with a two storey extension. The parties also agree that the entirety of the land to which the notice relates, identified on the plan attached to the notice and referred to in the notice as 'the premises', comprises seven flats. These are contained within the main building on the site, as extended. Finally, the parties agree within the statement of common ground that, whilst the rear ground floor flats Nos 3 and 4 are contained entirely within the new extension, rear first floor flats Nos 7 and 6 are contained partly within the extension and partly within the original building. Having had regard to the plans, I can agree with this position.
11. In view of the above, I am satisfied that the allegation of the material change of use of what is identified in the notice as 'the premises' is accurate. I cannot say the same with regard to the allegation of the erection of 4 flats. If it were the case that the 4 flats in question were contained entirely within the new extension, I would not find fault with the notice in terms of how it describes what has occurred. However, for the reasons given above, the notice does not describe with the necessary degree of accuracy what has occurred. It also lacks the necessary precision as it does not adequately identify the location of the operational development it alleges. For this reason, the notice is invalid, but I do not find it so hopeless as to render it a nullity.

12. Within the SOCG the parties have agreed a suggested amendment to the description of the alleged breach of planning control comprising operational development. They suggest: 'the erection of a two-storey building attached to the rear of the main house'. Whilst this describes the new extension as a 'building', I am satisfied that what is suggested is accurate, having regard to the definition of a building at section 336 of the 1990 Act. I am also satisfied that this suggested correction will overcome my concerns with regard to how the notice identifies the location of the operational development that has occurred.
13. Neither party suggest that any injustice would be caused by this correction to the notice and I see no reason to find otherwise. Accordingly, I intend to correct the notice, as suggested. I also intend to correct the corresponding requirement (step 1), so that the description of what must be demolished is consistent with the allegation.
14. Turning to the requirements of the notice, the appellant points to step 1 and says that it is not clear what must be done following the required demolition. They say that this ambiguity makes the notice a nullity.
15. Section 173 of the 1990 Act specifies the contents and effect of an enforcement notice. The purpose of the notice in this case is to remedy the breach of planning control alleged. Section 173(3) informs that an enforcement notice shall specify the steps that are required to be taken 'in order to achieve, wholly **or partly**' (my emphasis), any of the purposes specified in section 173(4). Relevant to this case, those purposes include remedying the breach by 'restoring the land to its condition before the breach took place' (section 173(4)(a)).
16. What will be alleged, once the notice is corrected as I intend, is the erection of a building attached to the rear of the main building. Step 1 of the notice will require the removal of this operational development. Whilst I find this requirement clear on its face, I acknowledge that it would only partly achieve the purpose of remedying the breach. By this I mean that this requirement, when complied with, would not mean that the land is entirely restored to its condition before the breach took place; at least the first floor of the remaining building is likely to be left exposed on its rear elevation.
17. However, the part of section 173(3) of the 1990 Act I have highlighted in bold above informs that a notice can require steps that either wholly **or in part** achieve the purpose of remedying the breach. Accordingly, despite what will remain following compliance with the notice, I do not find step 1 out of accord with section 173 of the 1990 Act. The notice is not, therefore, invalid for this reason. I acknowledge that this will leave some difficulty for the appellant, following compliance with the notice. I will come back to this later in this decision.
18. With regard to step 3, the appellant suggests that this renders the notice a nullity, because, they say, no detail has been provided to define what is meant by original. Step 3 requires the restoration of the layout of the building to that before the material change of use and operational development took place. When read as a whole, this requirement is entirely in line with the provisions of section 173(4)(a) of the 1990 Act. Indeed, the appellant is best placed to know what the previous condition of the building and land was, and they have provided plans showing the layout of the main building on the site, prior to its extension and the material change of use. Accordingly, I am not persuaded that this requirement renders the

notice a nullity or invalid. Whether it exceeds what is necessary to remedy the breach is a matter I consider under the ground (f) appeal.

19. To summarise this part of my decision, whilst I do not find the notice invalid by reason of its requirements, I have found the allegation to be inaccurate in that the erection of four flats has not occurred. Accordingly, the ground (b) appeal should succeed insofar as it relates to this element of the allegation. I intend to correct the notice, as set out above, as doing so would not cause injustice to any party.

Ground (f)

20. As I note above, the purpose of the enforcement notice is to remedy the breach of planning control alleged. For the appellant to succeed on ground (f), I must be satisfied that the steps required to comply with the notice exceed what is necessary to remedy the breach.
21. I have found above that step 1 of the requirements would achieve, in part, the purpose of remedying the breach insofar as it will relate to the erection of a building, once the notice is corrected as I intend. Clearly, further works to the building will be required in order to secure the building, and for it to be used as a single dwellinghouse in the future, which the parties appear to agree was the lawful use of the appeal site prior to the material change of use to flats. In light of this, I cannot agree that this requirement exceeds what is necessary to remedy the breach.
22. Turning to step 2, whilst the appellant has not objected to the requirement to cease the use of the premises as flats, they point to the requirement to remove all internal partitions. I have considered the plans submitted, which show the internal layout of the building on site, prior to the material change of use and extension. It is clear from this that each floor of the building would have been divided internally to create living rooms, bedrooms, etc. when the building was previously used as a single dwelling. In comparing these plans with the current layout plan (drawing number DEC/JB/25-001), it is also clear that some additional partitions have been erected in the building in order to facilitate the material change of use that has occurred. These include the internal walls erected to create a separate bathroom for each flat.
23. In view of the above, not all internal walls were erected within the building to facilitate the material change of use. The notice requires the removal of all internal walls 'associated with the unauthorised change of use to flats'. In doing so, it requires only the removal of internal walls that have facilitated the breach and not, therefore, those that existed prior to the breach. For this reason, I do not find this requirement of the notice excessive in achieving the purposes of remedying the breach comprising a material change of use.
24. With regard to the requirement to remove all items, again this only applies to the items 'associated with the unauthorised change of use to flats'. It might well be the case that certain of these items would be useful, should the use of the appeal site return to its former use. However, I have no reason to doubt that any items on site that are associated with the material change of use, have been brought onto the site to facilitate the material change of use. For this reason, I cannot find the requirement to remove such items excessive in remedying the breach of planning control that has occurred.

25. As for step 3, I have compared the layout plans of the former dwelling with the current layout plans and note that, whilst some internal walls have been erected, others have been removed. The layout of the ground floor in particular has, for example, been altered to provide a boiler room; to change the entrance to the former w.c.; and to remove the wall between the former kitchen and dining room. It is unnecessary to require these elements to be undone and internal walls to be reinstated where they have been removed. I understand the intention of the Council with this requirement, in that it will ensure that the property could not be used as separate flats, once it is complied with. However, step 2 would achieve this purpose. Accordingly, I consider step 3 to be excessive in that it requires the layout to return to that of the former use as a single dwellinghouse, when all that is needed to comply with section 173 of the 1990 Act is a remedy to the breach, achieved by step 2.
26. Notwithstanding the above, I note the agreed position between the parties on the requirements of the notice, set out in the SOCG. They suggest variations to the requirements that would make the notice less onerous, particularly with regard to the removal of internal walls and bathrooms within the building and the reinstatement of the former layout. This would overcome my concerns with regard to step 3. It also appears to me to be a pragmatic approach to remedying the breach of planning control in this case.
27. In summary, in view of my findings with regard to step 3, the appeal succeeds in part on ground (f). I intend to vary the requirements of the notice in line with what is suggested by the parties.

Ground (g)

28. An appeal on ground (g) is that the period specified in the notice falls short of what should reasonably be allowed. The notice specifies a period of 6 months from the date it takes effect. The parties have agreed that a period of 9 months would be reasonable.
29. Whilst I note the representations of the appellant, there is nothing before me to suggest that any occupiers of the property have a tenancy agreement that extends beyond 6 months, or to corroborate the suggestion that the appellant would have difficulty in removing the tenants from the property. Neither is there anything to support the claim that there would be some difficulty in securing a building contractor to carry out the necessary works to comply with the notice.
30. Notwithstanding this, I have noted above that, once the notice is complied with, this would leave at least the first floor of the building exposed on its rear elevation. It might be necessary to seek planning permission to make good the rear elevation, or for the appellant to obtain permission for some alternative alteration to the building. Considering the position that would be left once the requirements of the notice have been complied with, an extended period for compliance with the requirements that relate to the operational development is necessary and reasonable. This would allow the appellant to obtain any necessary permissions to carry out works to secure the rear elevation of the building, before the works to remove the extension to the building commence.
31. For this reason, the appeal on ground (g) should succeed in part. I will vary the notice to give a nine month period for compliance with the requirements that relate to the corrected allegation of the erection of a building.

Conclusion

32. I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control that has occurred insofar as it relates to an allegation of the erection of four flats. For this reason, the appeal on ground (b) succeeds in part. It is, however, open to me to correct the error in the notice in accordance with my powers under section 176(1)(a) of the 1990 Act, as no injustice would be caused in doing so.
33. Furthermore, I conclude that one of the requirements of the notice is excessive to remedy the breach of planning control, and that the period for compliance with the notice falls short of what is reasonable. The appeal on grounds (f) and (g) also succeed in part.
34. I shall, therefore, correct and vary the enforcement notice prior to upholding it.

Formal Decision

35. It is directed that the enforcement notice is corrected and varied by:
- the deletion from schedule 2 of the words "four flats" and their substitution with the words "a two-storey building attached to the rear of the main house";
 - the deletion from step 1 of schedule 4 the words "four flats" and their substitution with the words "the two-storey building attached to the rear of the main house";
 - the deletion from schedule 4 of step 2 and step 3 in their entirety and their substitution with the words "STEP 2 Cease the use of the premises as flats and remove all but three bathrooms and one kitchen, from the premises"; and
 - in schedule 5, the insertion after the words "6 months after this notice takes effect" the words "for STEP 1 and 9 months after this notice takes effect for STEP 2".
36. Subject to the corrections and variations, the appeal is dismissed and the enforcement notice is upheld.

J Moss

INSPECTOR