



Appeal Decision

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date 08 July 2026

Appeal Ref: APP/N5090/C/25/3375310

45 Holdenhurst Avenue, London N12 0JA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Hongmei Chen against an enforcement notice issued by the Council of the London Borough of Barnet.
- The notice was issued on 13 October 2025.
- The breach of planning control as alleged in the notice is 'Without planning permission, the making of a material change of use of the building to use as a House in Multiple Occupation (sui generis)'
- The requirements of the notice
 1. Cease the use of the property as a House in Multiple Occupation
 2. Restore the land to the state in which it was prior to the breach of planning control by:
 - i) Removing shower from ground floor forward facing room
 - ii) Removing all but one set of toilets and sink from the ground floor
 - iii) Removing all but one kitchen from the property, the removal to include ovens, hobs, hotplates, extractor units, sinks, work surfaces, kitchen style cupboards, hot and cold water supply and foul waste drainage pipe work.
 3. Permanently remove from the site all constituent elements resulting from the work in 2 above.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (the Act) (as amended).

Decision

1. It is directed that the enforcement notice is varied by :
 - (i) Deleting the period for compliance in full and replacing it with the following wording

'The period for compliance with requirement 1 is 6 months and the period for compliance with requirements 2 and 3 is 7 months'.
2. Subject to the variation, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

3. The effect of Section 118 of the Levelling Up and Regeneration Act 2023 is to bar an appeal under ground (a) where an enforcement notice was served within two years of the date on which a related application ceased to be under consideration. The Council refused to grant planning permission for the development on 26 September 2025 and the subsequent planning appeal referred to in the appellant's statement was dismissed on 30 March 2026.
4. There is therefore no ground (a) appeal which is that planning permission should be granted for the matters stated in the notice. I am therefore unable to consider the planning merits of the development as part of this appeal.
5. As the appeal is proceeding on grounds (f) and (g) only, I am able to proceed to determine the appeal based upon the evidence before me without a site visit. The

parties were informed that a site visit was not required and no objections were received.

6. There are errors in the Council's statement on the front page, and within the document with incorrect wording of the notice together with a photograph of a different property. However, I am satisfied that the Council's statement does specifically address the grounds of appeal with regard to the appeal property.

The appeal under ground (f)

7. Section 174(2)(f) of the Act states that an appeal may be made on the ground that the steps required by the notice to be taken, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. As the requirements relate to cessation of the unauthorised use and removing fixtures from the appeal site, the purpose of the notice is to remedy the breach of planning control.
8. As well as ceasing the use of the property as an House in Multiple Occupation (HMO), the requirements include restoring the land in which it was prior to the breach of planning control by: removing the shower from ground floor forward facing room, removing all but one set of toilets and sink from the ground floor and removing all but one kitchen with features such as ovens and hobs and other associated features which are listed. The appellant has indicated that the first floor kitchen will be removed and its removal is not, in any event, excessive requirement when a kitchen will remain.
9. However, the appellant considers that the requirement to remove the shower from the ground floor facing room and the requirement to remove all but one set of toilets and sinks from the ground floor 'is not automatically justified unless such works are genuinely required to remedy the breach or injury to amenity.' The appellant has referred to the requirements exceeding the purpose of the notice in accordance with Section 173(4) of the Act. However the wording specifically refers to remedying the breach by discontinuing the use *and* restoring the land to its previous condition.
10. Case law¹ also states that an enforcement notice directed at a material change of use, may require the removal of works integral to and solely for the purpose of facilitating the unauthorised use, even if such works on their own might not constitute development or be permitted development, or be immune from enforcement, so that the land is restored to its condition before the use took place.
11. The key test is therefore whether the shower and additional toilets and sinks on the ground floor were integral to, or part and parcel of the material change of use which the Council has enforced against. The Council has provided details of the application made by the appellant in April 2022 to obtain a lawful development certificate (LDC) with regard to a change of use from 'residential to HMO'. The application included a drawing marked as 'existing' showing what was a three bedroomed family home with one kitchen on the ground floor and one bathroom with toilet on the first floor. The application form stated that the appeal property was being used by the appellant's family as a residential property. The HMO use began in October 2022.

¹ Murfitt v SSE [1980] JPL 598

12. The appellant has provided an 'existing' plan² dated 11 July 2025 which shows additional features on the ground floor. They include a shower room in the forward facing bedroom as well as an ensuite shower with toilet in the rear bedroom. There is also a separate toilet and sink next to the ensuite shower room. The additional features were not in situ when the appeal property was used as a family home based upon the plans submitted with the earlier application. The evidence provided supports the view that the facilities which are required to be removed in the notice were not present when the appeal property was in use as a single family dwellinghouse. The facilities were installed at a later date to facilitate the material change of use to an HMO.
13. The disputed requirements are also limited to removing a shower in a specific ground floor room and leaving one toilet and a sink on the ground floor. Facilities will therefore remain on the ground floor in addition to those provided on the other two floors. The appellant has referred to having a shower and toilet within a ground floor bedroom not being inconsistent with lawful C3 residential use. However, that is not the relevant test where a material change of use has occurred. It is also not within the scope of the requirements to require the previous lawful use to be reinstated as suggested by the appellant.
14. An appeal under ground (f) is limited to consideration of whether the requirements of the notice exceed what is necessary having regard to the purpose of the notice which in this case is to remedy the breach of planning control. As the purpose of the notice is to remedy the breach, the requirements are not excessive when the fixtures which are required to be removed did facilitate, and were integral to, the breach. The appeal under ground (f) appeal therefore fails.

The appeal under ground (g)

15. An appeal under ground (g) relates to the period for compliance with the notice which is 6 months. The appellant considers that the period should be extended to a period of no less than 12 months to allow termination of tenancies, relocation of occupiers and completion of any works and compliance with statutory obligations.
16. The appellant has referred to the need to ensure that the provisions of the Renters Rights Act 2025 and the Protection from Eviction Act 1977 are complied with. Whilst that is not disputed, I have to balance the public interest in securing compliance with the matters raised by the appellant. In the absence of a ground (a) appeal, the harm alleged in the notice has occurred. However, the compliance period needs to be reasonable and proportionate when tenants will lose their homes. It is never possible to guarantee that occupiers can find somewhere new to live but I am mindful that finding a home will take time and tenants need to find new accommodation through no fault of their own.
17. At the time of the filing of the appellant's statement in October 2025, there were 7 tenants who had 12 month tenancies although no details were given of commencement dates which may not necessarily be the same date or notice periods. It is not the case that the appellant has had time to make arrangements with tenants since June 2025 as stated by the Council as the appellant was entitled to apply for planning permission but there has been no subsequent grant of planning permission.

² Ref P01-1 Revision 2 11 July 2025

18. Nevertheless, the Council considers that allowing 6 months is sufficient and I do agree that in the absence of any specific information about the tenants or copies of agreements, 6 months is a reasonable period for the cessation of the HMO use. The appellant can keep the Council informed with regard to the steps taken to secure compliance and any issues arising. However, I do consider that extending the existing period by a further month with regard to removal of facilities is appropriate so that they can be removed once all of the tenants have vacated. The appeal under ground (g) therefore succeeds to that limited extent.

Conclusion

19. For the reasons given above, I conclude that the appeal should not succeed. I shall vary and then uphold the enforcement notice.

E Griffin

INSPECTOR