



Appeal Decision

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2026

Appeal Ref: APP/Y5420/C/25/3359207

1 Inverness Terrace, Stirling Road, Wood Green, London N22 5BS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Shahid Akhtar against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The notice was issued on 20 November 2024.
 - The breach of planning control as alleged in the notice is the material change of use of the property to a small HMO (C4).
 - The requirements of the notice are to: Cease the use of the property as a house in multiple occupation.
 - The period for compliance with the requirements is: 9 months.
 - The appeal is proceeding on the ground set out in section 174(2)(d) 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.

Preliminary Matter

2. Neither the appellant nor the Council considered a site visit would be necessary. Given the ground of appeal pleaded, I agree as the appeal can be determined based on the written evidence. Neither party has been prejudiced by this approach.

Ground (d)

3. For the appeal on ground (d) to succeed it has to be shown that at the time the notice was issued it was too late to take enforcement action. The burden of proof is on the appellant, and the relevant test is the balance of probability. If the local planning authority has no evidence itself to contradict or otherwise make the appellant's version of events less than probable, an appeal on ground (d) can succeed, provided that the appellants evidence alone is sufficiently precise and unambiguous.
4. The enforcement notice is directed at a material change of use to a house in multiple occupation (HMO) (Use Class C4). Consequently, in this case, to be lawful the appellant needs to show that the unauthorised use commenced at least 10 years before the date of the notice and continued without any significant interruption thereafter for at least a 10-year period. The relevant date is therefore 20 November 2014.
5. However, very little evidence has been submitted by the appellant to support his claim. Even without any countering evidence from the Council, the appellant has not met the required standard of proof in his own submission. The documentary evidence submitted by the appellant included:

- HMO Licence dated 23 May 2024 for the period 23 May 2024 – 22 May 2029
 - Part of an Assured Shorthold Tenancy (AST) dated 26 March 2010
 - Part of an AST dated 23 April 2011
 - Part of an AST dated 3 October 2012
 - Deposit Protection Service (DPS) letter dated 22 October 2012
 - DPS letter dated 27 May 2019
 - Gas Safety Certificates from 2010, 2012 and 2014
 - County Court letter dated 15 March 2019 in relation to tenants not paying rent
6. The existence of an AST does not, of itself, mean that the property was occupied. On their own they do not demonstrate continuity of occupation, and no supporting or corroborating evidence such as bank statements showing the payment of rent, or statements from former tenants, have been provided. The names of the tenants listed on each AST differ, and whilst those named on the DPS letter dated May 2019 are the same as those on the County Court letter dated March 2019, it is wholly unclear who (if anyone) occupied the property for the duration of the period between 2012 and 2019.
7. I acknowledge that the two DPS letters indicate that three tenants paid a deposit in 2012, with a further three paying a deposit in 2019. However, there is very little else to demonstrate the occupation and use of the property as a house in multiple occupation (HMO) for the requisite period. The gas safety certificates and HMO Licence also do not assist in this regard.
8. There are clear and significant gaps in the appellant's evidence which is imprecise and ambiguous. Consequently, the burden of proof which rests on the appellant has not been satisfactorily discharged in this case.
9. In conclusion, the appellant has failed to demonstrate, on the balance of probability, that the development subject of the enforcement notice was immune from enforcement action at the date the notice was issued. Accordingly, the appeal on ground (d) fails.

Conclusion

10. For the reasons given above I conclude that the appeal fails. I have therefore upheld the enforcement notice.

David Jones

INSPECTOR