



Appeal Decisions

Site visit made on 22 June 2026

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2026

Appeal A Ref: APP/F5540/C/25/3358481

7 Tachbrook Road, Feltham TW14 9PD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended.
- The appeal is made by Mr Daniel Moore of AXMO LTD against an enforcement notice issued by the Council of the London Borough of Hounslow.
- The notice was issued on 2 December 2024.
- The breach of planning control as alleged in the notice is *without planning permission, the unauthorised conversion of the property to a House in Multiple Occupation (Use Class C4)*.
- The requirements of the notice are:
 - i. Cease use of the property as a House in Multiple Occupation (Use Class C4)
 - ii. Remove all but one of the bathrooms and associated bathroom facilities i.e. shower/bathing facilities, WC, wash basin and pedestal.
 - iii. Remove all but one the kitchens and associated kitchen facilities (i.e. all kitchen and bathroom facilities, facilities to include the following items:- kitchen wall and base units, kitchen sink, kitchen worktop surfaces, cooking facilities and cooker hood.
 - iv. Remove all resultant debris from the Land.
- The period for compliance with the requirements is: *4 months after the date this notice takes effect*.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c) and (g) of the 1990 Act (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Appeal B Ref: APP/F5540/C/25/3358482

7 Tachbrook Road, Feltham TW14 9PD

- The appeal is made under section 174 of the 1990 Act (as amended).
- The appeal is made by AXMO LTD against an enforcement notice issued by the Council of the London Borough of Hounslow.
- The notice was issued on 2 December 2024.
- The breach of planning control as alleged in the notice is *without planning permission, the unauthorised construction of a hip to gable roof extension, the erection of a rear roof dormer and the erection of a rear roof outrigger*.
- The requirements of the notice are:
 - i. Demolish the rear roof dormer from the dwellinghouse
 - ii. Demolish the rear roof outrigger from the dwellinghouse
 - iii. Restore the roof of the dwellinghouse to its condition prior to the breach taking place
 - iv. Remove all resultant debris from the Land
- The period for compliance with the requirements is: *9 months after the date this notice takes effect*.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the 1990 Act (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the 1990 Act.

Formal Decision

1. Appeal A is allowed and the enforcement notice is quashed.
2. It is directed that the enforcement notice subject to Appeal B is corrected by:
 - the deletion of the words "hip to gable" and the addition of the words "consisting of" and "extension to the" at Section 3 of the notice, so that it reads as follows:

Without planning permission, the unauthorised construction of a roof extension, consisting of the erection of a rear roof dormer and the erection of a rear roof extension to the outrigger.

3. Subject to the correction, Appeal B is allowed and the enforcement notice is quashed.

The Enforcement Notice

4. The enforcement notice relating to Appeal B alleges operational development consisting of the construction of a hip to gable roof extension, the erection of a rear roof dormer and the erection of a rear roof outrigger. Whilst a roof extension has taken place it did not involve a hip-to-gable extension.
5. Therefore, in the interests of clarity and to avoid any misinterpretation I have corrected the notice as stated above, to ensure that the alleged breach of planning control and the requirements of the notice are directed to the construction of a roof extension, consisting of the erection of a rear roof dormer and the erection of a rear roof extension to the outrigger only. My proposed corrections to the notice subject to Appeal B would not cause injustice to either party.

Appeal A – Appeal under ground (c)

6. An appeal under ground (c) is that those matters (if they occurred) do not constitute a breach of planning control. In a legal ground of appeal, the onus of proof is firmly on the appellant to make their case, on the balance of probabilities.
7. The London Borough of Hounslow issued an Article 4 Direction which removed permitted development rights for the change of use from a dwellinghouse (C3) to a house of multiple occupation (C4). The Article 4 Direction applied to the entire borough (with the exception of open land, industrial areas, Chiswick Business Park, Bedfont Lakes Business Park and the Mogden Sewage Works) and came into force on 4 September 2023. As such, development consisting of the change of use of a building from Class C3 of the Town and Country Planning (Use Classes) Order 1987 (the UCO) as amended, to Class C4 of the UCO; or vice versa would require planning permission.
8. The appellants allege that the change of use at the appeal property to a house of multiple occupation (HMO) commenced in July 2023, prior to the Article 4 Direction coming into effect. In support of their claim the appellants have supplied evidence in the form of sworn statutory declarations (SD), affidavits, Assured Shorthold Tenancy (AST) Agreements, DPS deposit protection certificates and bank statements. The appellant has also supplied an email to the Council's Housing Team in July 2023 where the appellant had applied for an HMO licence.
9. The first SD from Mr Daniel Moore of AXMO LTD states that three rooms at the appeal site were rented out to individual tenants in July 2023. This is corroborated in the SD from the Director of Hendon Estates, Mr Sheldon Bodmor. Hendon Estates were the management company instructed to rent out the appeal site as an HMO. An affidavit submitted by one of the tenants (Mr Avi Elzas – Flat 2) further confirms that Mr Elzas moved into the premises in July 2023, alongside two other tenants.
10. The signed ASTs and paid deposits for the Flats titled 2, 5 and 6, by Mr Elzas, Mr Gast and Mr Bengio respectively, provide further credence to the alleged use of

the property as an HMO from July 2023. The submitted ASTs provide evidence of how the flats have been used and the length of time that the tenants have been in residence at each flat. It is unlikely tenants would have entered into the AST agreements unless they resided at the property for the timeframes indicated.

11. Whilst the AST agreements indicate a 12 month timeframe, the tenants were not satisfied with living conditions at the property. From the evidence before me, the tenants moved out of the property in September 2023 and were rehoused whilst significant alterations and refurbishment works were undertaken at the appeal site.
12. The appellant claims that the alterations were undertaken utilising “permitted development” (PD) rights under the relevant sections of the Town and Country Planning (General Permitted Development) (England) Order, 2015, as amended (GPDO). This is the subject of Appeal B. However, I have not been presented with any lawful development certificates (LDC) for these works, thus I cannot comment on their lawful status. Nevertheless, I have not been provided with any information that PD rights have been removed, and thus case law¹ has indicated the property would benefit from these rights whether in use as a dwellinghouse or HMO.
13. The Council have provided evidence in the form of photographs² that the standard of accommodation provided at the property was of a poor quality, when the appellant purchased the property in July 2023. The Council anecdotally questions the desirability of the accommodation for future occupiers but offers no specific evidence to that effect. The appellant’s evidence contradicts this claim to a degree, indicating that minor works of refurbishment were undertaken enabling three rooms to be rented out on a short term basis. Whilst the Council’s assertions in respect to the poor accommodation would eventually be proved correct, as the tenants were rehoused, this does not detract from the fact that a change of use to an HMO appears to have occurred in July 2023.
14. The Council’s photographs also show the construction works undertaken at the property in October 2023. The photographs highlight the extensive works undertaken, where the entire property was effectively uninhabitable, the Council therefore question whether the use as an HMO has been lost. It is acknowledged that extensive works were undertaken to the appeal property including internal sub-divisions and externally through the provision of a roof extension (subject to Appeal B). The question therefore is whether these works would have created a new chapter in the planning history of the site.
15. Case law³ highlights that the physical alteration of part of a site through the erection of a new building does not necessarily result in a new planning unit or extinguish the use. In *Jennings*, Lord Denning MR suggested that the theory that a new building or change of use must create a new planning unit should be discarded in favour of considering whether a new chapter in the planning history of the land is opened:

“This may take place where there is a radical change in the nature of the buildings on the site or the uses to which they are put – so radical that it can be looked upon as a fresh start altogether in the character of the site. If there is such a change and the occupier applies for permission and gets it subject to

¹ *Brent LBC v Secretary of State for Levelling Up, Housing and Communities* [2022] EWHC 2051 (Admin).

² Councils Statement of Case – Appendix 1

³ *Jennings Motors Ltd v SSE & New Forest DC* [1982] 2 WLR 131; [1982] JPL 181

condition – and acts upon that permission – he cannot afterwards revert to any previous existing use rights.”

16. Oliver LJ (with whom Watkins LJ agreed) felt it “*would be a pity to discard*” the planning unit theory altogether but nonetheless agreed that the “*essence of the matter*” was whether there has been, as a matter of fact and degree, a total change in the physical nature of the premises or “*in...the planning status that is inconsistent with the preservation of a prior existing use*”. As observed in *Titchfield*, a change in the planning status does not have to involve a radical or indeed any change in the physical nature of the site.
17. In this case the extensions and internal alterations have merely facilitated better accommodation for an existing, albeit recently converted HMO, which in my view has not radically altered the appeal site where a fresh character of this site would have been observed. On the balance of probabilities, the material change of use from C3 to C4 took place prior to the Article 4 Directive, and in my view the refurbishment works did not amount to a change in the nature of the use which was sufficiently radical to create a fresh start in its character, or resulting in the loss of the lawful use rights that had arisen from the change of use.
18. Overall, the provision of addressed utility bills, council tax records, services or other correspondence at the appeal site, would have provided additional assistance in verifying that the site had been used as three separate units, prior to the Article 4 Directive coming into effect. Whilst I do not have this evidence before me, it is well established that an appellant’s evidence should not be rejected simply because it is not corroborated by independent evidence. Conversely, the Council has advanced little compelling information to contradict the appellant’s evidence or to make their version of events less than probable.
19. Thus, based on the submitted information before me, and in the absence of any evidence to the contrary, there is no significant uncertainty over the use of the property as an HMO prior to the Article 4 Direction. I must therefore conclude that the appellant has discharged the burden of proof, and as a result the ground (c) appeal succeeds. I shall quash the notice in regard to Appeal A.
20. The appeal under ground (a), the deemed planning application and appeal under ground (g) do not therefore fall to be considered.

Appeal B – Appeal under ground (c)

21. The appellant alleges that the roof extension benefits as PD under Schedule 2, Part 1, Class B of the GPDO, and as such these matters, do not constitute a breach of planning control. The Council contend that the roof extension is not considered PD, as it specifically breaches section B.1(d)(ii) in that the resulting roof space would exceed 50 cubic metres for a semi-detached property.
22. The appeal property is semi-detached with a two-storey outrigger at the rear of the premises which from the details before me is part of the original house. The roof extension consists of the erection of a rear roof dormer to the main roof joined to another dormer erected over the roof of the rear outrigger. There is discrepancy between the parties in respect to the cubic content of the resulting roof space.

23. The Councils calculations are highlighted in a table⁴ in their statement of case, stating that the total volume would be 53.82 cubic metres. However, there is limited information in regard to how these figures were obtained. Conversely, the appellant's calculations are shown on a drawing using AutoCAD⁵. This provides a total volume of 39.98 cubic metres which is significantly below the 50 cubic metres tolerance for a semi-detached property. Given that AutoCAD measurements are given to the millimetre, it is likely that the Council's figures are not as accurate as those supplied by the appellant. Therefore, on the available evidence, I find on the balance of probability that the appellant's calculations are more accurate, and thus the development is in accordance with the cubic tolerances under section B.1(d)(ii) of the GPDO.
24. The development is also subject to various conditions. One such condition being, at paragraph B.2(b)(i)(bb) of Class B, that the enlargement must be constructed so that the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves.
25. The requirement is qualified by the text at paragraph B.2(b)(i) which states: '*other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension*'. This provides an exemption from the 0.2 metre setback requirement for the types of roof enlargement specified. Paragraph B.4.(b) clarifies that a '*rear or side extension*' includes an original part of, or subsequent extension of, the dwellinghouse that extends from the rear or side of the principal part of the original dwellinghouse.
26. Furthermore, the Permitted Development Rights for Householders - Technical Guidance⁶ (TG) advises that the enlarged part of the roof may join the original roof to the roof of a rear or side extension, whether the part of the house being extended forms part of the original house or is an enlargement. The TG specifically includes such an extension on a main roof and 'outrigger' or 'back addition' roof.
27. In these circumstances the TG considers outriggers to be 'rear extensions' for the purposes of the exemptions in B.2.(b). That is a reasonable interpretation, as the original outrigger extends beyond the main body of the property and is subservient to the main premise with separate roofs.
28. Whilst the development does not consist of a hip-to-gable extension, the provision of the dormer to the main roof being attached to the dormer on the rear outrigger, does enable the creation of enlarged roof space which joins the original roof to the roof of the rear outrigger. Consequently, as the dormers join the original roof to the roof of the rear extension, the requirements of condition B.2.(b) do not apply to the development. As such, there is no requirement for the enlargement to be setback from the eaves by 0.2 metres.
29. Be that as it may, there are nevertheless small setbacks from both the eaves of the main property and the eaves of the outrigger. From the details before me, I am unable to ascertain the exact measurements of these setbacks, however even if these are less than 0.2 metres, I have found that a setback is not required for this type of enlargement to qualify as PD.

⁴ Councils Statement of Case (Ref: CURE/2024/01414) page 6

⁵ Appendix 9 of the appellants Statement of Case

⁶ September 2019

30. Consequently, bringing all these points together, the appellant has demonstrated, on the balance of probabilities, that the dormer extensions were considered as PD having regard to the relevant provisions of the GPDO. Therefore, the matters stated in the notice have occurred, and I conclude that the appellant has shown, on the balance of probabilities, that they do not constitute a breach of planning control.
31. Appeal B therefore succeeds in respect to the ground (c) appeal, and the appeals under ground (a), the deemed planning application, ground (f) and ground (g) therefore do not fall to be considered.

Overall Conclusions

32. For the reasons given above, I conclude that Appeal A should succeed on ground (c). The enforcement notice will be quashed.
33. In these circumstances, the appeals on grounds (a) and (g) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act (as amended) do not fall to be considered.
34. On the balance of probabilities, Appeal B on ground (c) should succeed in respect of those matters which, following the correction of the notice, are stated as constituting the breach of planning control.
35. The enforcement notice subject to Appeal B will be corrected and quashed. In these circumstances, the appeals on grounds (a), (f) and (g) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act (as amended) also do not need to be considered.

Robert Naylor

INSPECTOR