



Appeal Decisions

Site visit made on 10 August 2026

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

an Inspector appointed by the Secretary of State

Decision date: 20 August 2026

Appeal A: Ref APP/T5150/C/24/3345486

17 Hollycroft Avenue, Wembley HA9 8LG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Ali Kadhum Jawad against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice (Notice A) was issued on 24 April 2024.
 - The breach of planning control as alleged in the notice is failure to comply with a condition imposed on a planning permission ref 17/4517 granted on 19 February 2018.
 - The development to which the permission relates is:
Erection of a single storey rear extension, first floor side to rear extension, side dormer window to dwellinghouse.
 - The condition in question is No 1 which states that:
The development hereby permitted shall be carried out in accordance with the following approved drawing(s) and/or document(s): 101 – 107 Incl. 109-R.B, 108-R.A 110-R:B, 111-R.C, 112-R.C, 113-R.C, 114-R.C, 115-R.C.
 - The notice alleges that the condition has not been complied with in that the extensions have not been built in accordance with the approved drawings of planning permission 17/4517, contrary to the interests of proper planning.
 - The requirements of the notice are to:
STEP1 Alter the extensions to the premises as shown in PLAN A attached to this notice.
STEP2 Alter the layout of the premises as shown in PLAN A attached to this notice.
STEP3 Remove all items, debris and materials, arising from compliance with STEPS 1 and 2, from the premises.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) (b) (c) (d) of the Town and Country Planning Act 1990 as amended (the Act). Since the appeal on ground (a) has been made, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Appeal B: Ref APP/T5150/C/24/3345487

17 Hollycroft Avenue, Wembley HA9 8LG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Ali Kadhum Jawad against an enforcement notice issued by the Council of the London Borough of Brent.
- The enforcement notice (Notice B) was issued on 24 April 2024.
- The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the premises to two flats.
- The requirements of the notice are to:
STEP1 Cease the use of the premises as flats.
STEP2 Remove all internal partitions, items, materials and debris associated with the unauthorised change of use, including the removal of all kitchens, en-suite bathrooms/shower rooms and toilets.
STEP3 Restore the internal configuration to the layout which existed prior to the

- unauthorised change of use taking place, as shown in "Plan A" attached to this notice.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the ground set out in section 174(2) (a) (d) (f) of the Town and Country Planning Act 1990 as amended (the Act). Since the appeal on ground (a) has been made, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Decisions

1. Notice A is found to be a nullity and no further action will be taken in connection with Appeal A.

In the light of this finding, the local planning authority should consider reviewing the register kept under section 188 of the 1990 Act as amended.

2. Appeal B is allowed and Notice B is quashed.

Appeal A

3. The notice, in Schedule 4, requires alterations to the premises 'as shown in PLAN A' attached to the notice. The accompanying notes stress that failure to comply with an enforcement notice that has taken effect can result in prosecution and/or direct action by the Council.
4. It seems to me that the appellant can *either* alter the premises to comply with what is shown in Drawings Nos 113-R.B and 111-R.C of PLAN A (showing no 2nd floor window or dormer on the western elevation) or alter the premises to comply with what is shown in Drawing No 110-R.B of PLAN A (showing a 2nd floor window from what appears to be a dormer on the western elevation). He cannot do both¹. He would be faced with uncertainty as to what he should do to comply with the notice and avoid the serious implications of which the Council warned.
5. For these reasons, the notice is hopelessly ambiguous and uncertain. The appellant cannot tell with reasonable certainty what steps he has to take to remedy the alleged breach.
6. I therefore conclude that the notice is a nullity. In these circumstances, the appeal on the grounds set out in section 174(2) (a) (b) (c) and (d) of the 1990 Act as amended - 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. No further action will be taken on the appeal.

Appeal B Ground (d)

7. For success on this ground, the appellant must demonstrate on the balance of probabilities that enforcement action was not possible on the date the notice was issued.
8. As section 171B(2) of the Act relates to the appeal development, no enforcement action may be taken after the end of the period of 4 years beginning with the date of the breach. As the notice was issued on 24 April 2024, the relevant date for immunity purposes is 24 April 2020.

¹ The appellant made this point in his appeal statement, although the Council failed to engage with it.

9. The Council accepts that the premises enlargements which are the subject of Appeal A took place sometime between March 2018 and June 2019, with aerial photography showing them in place by the end of that period. Further, the Council's statement on that appeal says, "The extensions facilitated the unauthorised material change of use of the premises to flats". The appellant confirms that was the case, with the conversion into flats occurring at the same time of the unauthorised extensions. I find it entirely credible that the property was so significantly extended in order to create 2 dwellings from 1, and it would have made logistical and financial sense for all of the operational development to have been completed at the same time.
10. Within this context, the appellant has submitted a strong suite of supporting documentary evidence. One is a statutory declaration from the appellant himself, notably consistent with the contents of the above paragraph, declaring precisely and unambiguously that - following extension and conversion of the property - he let the new flat (17A Hollycroft Avenue, 'No 17A') from January 2019 (to, at least, the date he signed the declaration; 15 May 2024) and continued to let the 'main house' (17 Hollycroft Avenue) over the same period. This is corroborated by an equally precise and unambiguous statutory declaration from Faddel Mayah, the tenant of the 'main house' since 2010. Tenancy agreements for No 17A have been submitted, as referred to in the appellant's statutory declaration, covering the period 7 January 2019 to 9 February 2024 (with only brief, non-material, gaps between tenancies). A Google Earth image taken in December 2019 shows the entrance door to No 17A in place. This evidence in total is comprehensive and consistent, and I give it significant weight.
11. The Council has submitted photos taken by an officer on 17 September 2021. The door to No 17A is open, there is no stair carpet seen beyond, and there is what appears to be building waste on the drive outside of the entrance door near some bins. The Council says that this is evidence that works to create the new flat were ongoing at the time. The appellant has said that what was seen was unconnected to the conversion of the premises but instead related to other works that were subsequently undertaken (the demolition of an outbuilding). Given the evidence taken as a whole, including a tenancy agreement for No 17A at that time, on balance I accept the appellant's explanation. I also give very limited weight to the fact that a doorbell does not seem to have been provided to No 17A until later (witnessed on the next Council officer visit on 2 May 2023, again made to the outside of the property only); many homes do not possess a doorbell (indeed, I resided in a dwelling for many years without one).
12. The appellant made an application in August 2019 for a lawful development certificate (Ref 19/2814) relating to the outbuilding mentioned above. The Council says that he declared on the application form that the premises was a single family dwellinghouse. That application form has not been provided in evidence so I cannot consider it first-hand. Never the less, I understand from the appellant's comments on the Council's statement that reference to a 'house' was intended to refer to the 'main house' (17 Hollycroft Avenue), notwithstanding the additional flat created in the extensions, and that there was no intention to deceive. I accept that explanation; it cannot be assumed that all appreciate the nuances pertaining to permitted development rights and flats.

13. The Council has pointed to failure to register the converted flats with the Valuation Office Agency for council tax purposes, and to the absence of Energy Performance Certificates for the 2 flats. Those failings do not mean that the premises were not in fact used as 2 separate dwellings, as evidenced by the appellant in other ways, and again I find on the balance of probabilities that they were for the required immunity period with the use having commenced before the relevant date of 24 April 2020. Consequently, it was too late for the Council to take enforcement action when it did.
14. For these reasons, ground (d) succeeds. Appeal B is allowed and I will quash the enforcement notice (Notice B). In these circumstances, the appeal on the grounds set out in section 174(2) (a) and (f) of the 1990 Act as amended - 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.

Andrew Walker

INSPECTOR