



Appeal Decisions

Site visit made on 18 August 2026

by **M Bale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8th September 2026

Appeal A Ref: APP/T5150/C/24/3357860

2 Buckingham Road, London NW10 4RR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Kiritkant Karsan Patel of Wolmer Development Ltd against an enforcement notice issued by the Council of the London Borough of Brent.
- The notice was issued on 11 November 2024.
- The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the premises to a mixed use comprising a House in Multiple Occupation (HMO) and flats ('the unauthorised change of use').
- The requirements of the notice are:
 1. Cease the use of the premises as a House in Multiple Occupation (HMO) and flats.
 2. Do not occupy or use the premises for any purpose until details of secure cycle and refuse storage have been submitted to and approved in writing by the Council and subsequently implemented in full.
 3. Remove all internal partitions, kitchens and facilities from the premises that are not shown in the floorplan labelled 'Plan A' attached to this Notice.
 4. Alter the internal configuration of the premises so that the ground, first, and loft floor layouts, accord with the floor plans in 'Plan A' attached to this Notice.
 5. Remove all items associated with the unauthorised use, including all waste and materials, arising from compliance with the above steps, from the premises.
- 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), (c), (e), (f) and (g) of the Town and Country Planning Act 1990 (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.

Summary Decision: The appeal succeeds to the extent that the enforcement notice is upheld with variations in the terms set out below in the Formal Decision.

Appeal B Ref: APP/T5150/C/24/3357855

4 Buckingham Road, London NW10 4RR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Kiritkant Karsan Patel of Wolmer Development Ltd against an enforcement notice issued by the Council of the London Borough of Brent.
- The notice was issued on 11 November 2024.
- The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the premises to a mixed use comprising a House in Multiple Occupation (HMO) and flats ('the unauthorised change of use').
- The requirements of the notice are to:
 1. Cease the use of the premises as a House in Multiple Occupation (HMO) and flats.
 2. Do not occupy or use the premises for any purpose until details of secure cycle and refuse storage have been submitted to and approved in writing by the Council and subsequently implemented in full.
 3. Remove all internal partitions, kitchens and facilities from the premises that are not shown in the floorplan labelled 'Plan A' attached to this Notice.
 4. Alter the internal configuration of the premises so that the ground, first, and loft floor layouts, accord with the floor plans in 'Plan A' attached to this Notice.
 5. Remove all items associated with the unauthorised use, including all waste and materials, arising from compliance with the above steps, from the premises.

- 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), (c), (e), (f) and (g) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeal succeeds to the extent that the enforcement notice is upheld with variations in the terms set out below in the Formal Decision

Preliminary Matter

1. This decision letter relates to two appeals by the same appellant for neighbouring properties. They relate to two enforcement notices (“the Notices”), issued on the same day and served in the same way that allege the same unauthorised development, and require the same remedial action. The cases raise substantially the same issues, and, while there are some subtle differences in the facts between the two sites, there is considerable overlap. The reasons that I give for my decisions below, therefore, relate to both appeals unless expressly stated otherwise.

The enforcement notices

2. An enforcement notice must specify with reasonable certainty what has been done and what should be done to remedy it. The Notices do not specify the number of flats alleged to be within each of the properties. However, while it may have been possible to have greater precision, it is still clear what is alleged to have happened.
3. Even if there might be one, two, or more flats – or on the appellant’s case, none – it is clear that the Council considers there to be both flats and an HMO within each building, forming a mixed use. It is the mixed use that is targeted by the Notices and required to cease. That the allegation might be incorrect is not a reason to find the Notices invalid, rather it is relevant to grounds (b) and (c), that I deal with below.
4. Likewise, the Notices are clear on the remedial steps required. There are references to attached floor plans, with which the Notices require compliance, but if that is inappropriate, or based upon an erroneous understanding of the pre-existing or permitted situation, that is a matter that can be dealt with under ground (f). Again, the Notices on their face are clear in what is required and there is no reason that they should be found defective, before I can determine the appeals.

Ground (e)

5. Ground (e) is that copies of the Notices were not served as required by Section 172 of the Town and Country Planning Act 1990 (as amended) (“the 1990 Act”). The evidential burden on this ground (as with grounds (b) and (c)) is on the appellant to prove their case to a standard of the balance of probabilities.
6. The Notices were served on the owner of the land to which they relate. The dispute in these cases surrounds S172(2)(b) that copies must also be served on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the Notices. The appellant contends that the tenants were not served and, so, were deprived a right of appeal.
7. In respect of the tenants, the Council served the Notices by placing a laminated copy on each door handle, and posting a number of copies through each letter box. The two sites do not have individual external mailboxes for each of the

tenants. The evidence suggests that the posted copies were all addressed in the same way, to “The Owner/Occupier/Anyone with an Interest in land at” each of the respective sites.

8. The copies were not addressed to the individual tenants, some of which were known to the Council from site visits, and they were not addressed to the individual rooms/flats, most of which appear to have been numbered, and for which there were pigeon holes (seen in the Council's photographs, and still in existence now in No 4) within the hallways. The Council has not demonstrated any concerted effort to identify all of the tenants, and in any case, even if there was uncertainty over who was occupying each room/flat, it would not have been difficult to address them to the occupiers' individual rooms. That would have increased the chances that a copy would have reached each individual occupier.
9. Nevertheless, while there is no evidence that the occupiers received copies of the Notices, there is equally no evidence that they did not. The onus is on the appellant to substantiate their case and no tenant, nor the owner, has subsequently indicated that they were not aware of the Notice within sufficient time to lodge an appeal. Accordingly, no actual injustice has been evidenced. Nor is there any evidence, for example, of historic problems distributing mail to the tenants within the properties and it has not been suggested that insufficient copies were posted for each room/flat to have received one.
10. The Notices do not specify the number of flats, or their locations within the property. However, there is no reason why that should prevent their proper service, given that the copies posted were clearly intended to be read by the occupier(s). Nor would any discrepancy (if there was one) for the fee required for a ground (a) appeal prevent an occupier understanding that the Notice was intended for them.
11. Even if paper copies were not received by the individual tenants, there is no substantive evidence that the copy placed on the front door would not have been sufficient to have alerted the tenants to the Notice in any case, that it would not have been clear that it affected their homes, or there is any reason that the tenants would not have seen it when entering or leaving.
12. Therefore, on the balance of probabilities, I find that the Notices were properly served on the tenants and the requirements of S172 of the 1990 Act were met. In any case, no injustice has been demonstrated. In the absence of evidence that any party has been substantially prejudiced by the way that the Notices were served, I can set aside any failings in the service that may have occurred.
13. Accordingly, the appeals on ground (e) fail.

Ground (b)

14. Ground (b) is that the matters alleged in the Notices have not occurred. The appellant claims that the two properties were each used solely as HMOs and there has not been any use as self-contained flats alongside this. The case presented as to the historic use is the same, describing the same layout and use, but the facts appear to be slightly different.

Number 2

15. When I visited, number 2 appeared to be in use as a single family dwelling. There were two living rooms and a kitchen at ground floor, two bedrooms at first floor, with the first floor kitchen being used for storage. At the second floor, there were two bedrooms. I was denied access to the former kitchen or laundry (however it has been used) and the door had been screwed shut. Historic door numbers had been removed from the internal doors. This current arrangement has masked any previous use or layout.
16. However, there is a thorough and clear record, with annotated photographs, of the situation when Council officers visited on 30 October 2024. Importantly, these photographs show that a door had been created between the front ground floor (bed)room and the kitchen in the middle ground floor room. Access at that time was evidently available via the kitchen door from the hall and the door to the bedroom was not in use, having been blocked by a large piece of furniture.
17. There are no corresponding photographs of the first floor, but at my site visit both the appellant and Council officer agreed that there was a similar door between the front (bed)room and the kitchen, which was also in the middle room. The photographs show that access to the bedroom was available directly from the landing, but the arrangements for accessing the kitchen are unclear. The photographs mainly show the kitchen ceiling and only the very tops of the wall cupboards.
18. With the interconnecting door in place between the ground floor front bedroom and kitchen, this accommodation would have been laid out as a self-contained flat. It would have contained all the necessary facilities to function as a dwellinghouse and would have had no need to rely on other parts of the premises. This casts very substantial doubt upon the appellant's version of events that relies upon demonstrably incorrect floor plans showing a more typical HMO layout and unsupported assertion that the ground floor and first floor kitchens were shared between occupants. Those rooms without direct access to cooking facilities would have likely functioned together as an HMO, but it is more likely than not that there was at least one fully self-contained unit at the ground floor, and probably another on the first floor.

Number 4

19. The Council's photographic record of number 4, from the following day, is less comprehensive and lacks annotation. Nevertheless, from my own visit, I am able to identify that the photographs taken within one of the units are of room 2, at the rear of the ground floor. The Council also clarifies this in its final comments.
20. When I visited the site, the occupier of room 1, at the front of the ground floor, also held a key to the ground floor kitchen in the middle room. I do not know whether they are the only tenant with a key, but in any case, the kitchen and bedroom are both accessed from the communal hallway and so do not comprise self-contained accommodation. Unlike for number 2, there is no evidence of historic interconnecting doors. It is more likely than not, therefore, that room 1 is part of an HMO as it does not possess all the facilities required for a day-to-day private existence.

21. At first floor, I saw an unlocked fully fitted kitchen and two bedrooms. There were kitchen units and a fridge within the rear bedroom, but no cooking facilities. There is no photographic record of the historic situation. At second floor, the front bedroom, a room that the appellant describes as a laundry, with kitchen units, fridges and a sink, and separate shower and toilet room, are accessed via a small lobby behind a lockable door marked with a number 5. However, the rear second floor bedroom has no en-suite and so is likely to have always been reliant on the second floor shower and toilet room behind door 5, as there are no other such facilities that are not directly accessed from a bedroom.
22. It is unclear whether the ground floor kitchen in the middle room is shared, or for the sole use of room 1. However, the middle floor kitchen and upper floor so-called laundry, have probably been shared between the occupiers of the other rooms, none of which provide self-contained facilities sufficient to provide for a private day-to-day existence. This makes it more likely than not that the first and second floor rooms have always operated as an HMO.
23. That leaves room 2, at the rear of the ground floor. It has a small 'bedsit' area from which there is an en-suite shower and toilet room. In a distinctly separate area, behind a part-length wall, is a kitchenette containing a plug-in hob, microwaves, fridge and washing machine. Photographs from the Council's visit show this space containing a fitted hob.
24. In this way, it is different to the situation described by the Inspector considering a 2020 appeal at 70 Tadworth Road, subsequently subject to *Brent LBC v SSHCLG & Chaim Reiner* [2020] EWHC 3620 (Admin), where occupants had insufficient space to accommodate all of the different basic cooking facilities, and, effectively had to choose between storing clothes or food. Room 2 in this case has a dedicated kitchenette area, separate to the bedsit area. While undoubtedly small, it has contained all facilities necessary for a day-to-day private domestic existence.
25. Moreover, the Council officers report that the occupier of room 2 told them that they did not know of any shared kitchen facilities. I do not know the full circumstances of the conversation, or how this information was ascertained. However, added to the actual facilities provided within room 2, it casts doubt on the appellants version of events that room 2 has been used as part of an HMO.

Discussion

26. *Brent (Reiner)* clarifies that limited facilities, such as plug-in hobs do not necessarily result in self-contained flats where there are communal kitchens that are actively used. Similarly, *LB Brent v SSLHC & Yehuda Rothchild* [2022] EWHC 2051 (Admin) indicates that where there is material reliance on shared facilities, the presence of basic in-room cooking facilities such as a microwave or plug-in hob would not automatically equate to self-containment. In *Welwyn Hatfield BC v SSLHC & Ismail Kabala* [2022] EWHC 3175 (Admin) a key question was whether the Inspector was right to describe a property as an HMO despite the existence of bedsits providing all necessary facilities.
27. There is a common thread in these cases, that suggest that a property may still be an HMO where some of the rooms have basic cooking facilities. However, as noted by the appellant, *Brent (Rothchild)* also confirmed that planning control is concerned with actual use, not hypothetical potential. That may well mean that the presence of cooking facilities within a bedroom do not automatically necessitate

classification as self-contained units. But I do not see it necessarily follows that, where there are only basic facilities, accommodation cannot be a self-contained dwelling, if the facilities that are provided are sufficient for a day-to-day private domestic existence and they have been, on the balance of probabilities, used in that way.

28. In the current case, as I have explained, the communal spaces are clearly required for some of the rooms that do not benefit from any facilities needed for a day-to-day existence. Before the current configuration, that would probably have been the rooms described as 2, 5 and 6 in number 2 Buckingham Road; and rooms 1, 3, 4, 5 and 6 in number 4. On the basis of their limited facilities and physical arrangement I find that these rooms have been used as an HMO within the respective properties, probably since the appellant obtained licences for them in 2020.
29. However, a license is not in itself an indication that the whole of each property has been used in that way since. I see no reason that self-contained flats cannot also exist alongside those HMO uses, forming the mixed use alleged in the Notices. Nor do I see that the authorities cited in the evidence before me should be interpreted as saying that there cannot be self-contained flats because there is also an HMO operating within another part of the building and their occupiers *could* use a kitchen elsewhere if they wished to do so.
30. The appellant has suggested that they would provide statutory declarations to support their claims of use, but has not done so. Their case, therefore, is little more than unsubstantiated assertion, and the Council's evidence casts doubt upon it. Moreover, the evidence lacks precision, as it speaks as though the two properties have been used in an identical manner, despite the evidence suggesting that they have, at times, had different layouts.
31. The evidence before me suggests that there was probably a self-contained dwelling on the ground floor of number 2. There may have been another on the first floor. It is also more likely than not that room 2, at the rear of the ground floor has been and continues to be used as a self-contained dwelling.
32. For clarity, I note that in reaching these decisions, I have placed no weight on the way that the properties have been assessed for Council Tax, over which I understand the appellant is seeking clarification. However, for the reasons given, on the balance of probabilities, I find that the matters alleged in the Notices have occurred.
33. The appeals on ground (b), therefore, fail.

Ground (c)

34. The appellants case on ground (c) is that planning permission was not required to change the use of the properties from single dwellinghouses to HMOs. There is no substantive evidence that the properties were put to use as single dwellinghouses following their historic use as a doctors' surgery.
35. A Certificate of Lawfulness ("LDC") confirms that extensions proposed in 2020 would have been lawful. When determining that application, even if the Council was under obligation to check and satisfy itself as to the use, there is no substantive evidence that it would have had anything to cast doubt over the clear

statement on the application that the property was a single family dwellinghouse. Such would be a logical position following the, then, recent granting of permission for such a use. Ultimately, the LDC was not dealing with an existing use. It does not specify a use, and it cannot be read as confirmation that such was lawfully occurring at that time as a matter of fact.

36. In any event, I have found that the matters alleged correctly include self-contained flats alongside an HMO. It has not been shown how such a mixed use would not have required planning permission.
37. Accordingly, I find that the matters alleged do constitute a breach of planning control. The appeals on ground (c) fail accordingly.

Ground (f)

38. The purposes of these Notices are to remedy the breach of planning control. In that context, ground (f) is that the steps required to be taken exceed that which is necessary to do so. The requirements of both Notices are the same. The first requirement, to cease the alleged mixed use is clearly necessary to meet the purpose of the Notice.
39. Steps 3 and 4 require the reconfiguration of the premises to a layout shown on a plan that the Council has attached to each Notice, including the removal of the additional kitchens and en-suite bathrooms. They would require the repositioning of the ground floor kitchens to the rear parts of the house. It may well be that the breach of planning control could be remedied without those invasive works – especially on the ground floor. However, it is reasonable for an enforcement notice to require the removal of facilitating works, even where they might not require planning permission in their own right. The internal works specified fall into that bracket.
40. That said, while that plan attached to the Notices appear to be based on the LDC proposed layout, the appellant contests whether it is based upon an approved arrangement. I also do not know whether that arrangement was ever lawfully implemented prior to the breach of planning control. If the Council is correct that the unauthorised use followed directly from the previous doctors' surgery use, it seems unlikely that it was the layout that existed before the breach of planning control took place. Installing the specified layout therefore goes beyond what is necessary to remedy the breach.
41. A lack of clarity over how the premises have been used since the closure of the doctors' surgery casts doubt over what the lawful use may be. If it had been shown that there was another alternative lawful use available that retained some facilities, then it may have been possible to require a return to that configuration, or retain some of the bathrooms and kitchens, as an alternative option. However, such alternatives have not been shown, on the balance of probabilities, to exist.
42. Instead, it is necessary to vary the requirements to simply require restoration of the building arrangement (including any kitchen and bathroom provision) before the breach of planning control took place. The appellant is best placed to know what that was. This would also ensure that the buildings were returned to a condition associated with the most recent lawful use, which would be an appropriate starting point for considering any future use. In that regard, such a step would not exceed what was necessary to remedy the breaches of planning control.

43. The second requirement seeks to prevent any use of the premises until cycle and bin storage facilities have been provided. However, that clearly goes beyond what is required to remedy the breach of planning control. Once the breaches are remedied, the premises could return to the previous lawful use (whatever that may be), but it would not be appropriate to specify the installation of additional facilities to support that, already lawful use. Step 2 should, therefore, be simply removed.
44. For the above reasons, ground (f) succeeds in part. I shall amend the Notices through the removal of steps 2 – 4 and their replacement with one to restore the internal layout to the situation before each breach occurred.

Ground (g)

45. Ground (g) is that the period specified to comply with the Notices falls short of what should reasonably be allowed. The appellant requests 12 months instead of the specified 6.
46. As described above, my observations suggest that No 2 is now being occupied as a single family dwelling. In this regard, the Notice would have been complied with insofar as it concerns the use, noting here that whether a different unauthorised use has arisen would be a separate matter for the Council and appellant, beyond the scope of this appeal.
47. The remaining works would relate to internal reconfiguration and, while disruptive, would not result in the loss of a family home. Such would only arise if the current occupation is unauthorised and the Council decides to pursue further enforcement action against it. In these circumstances, 6 months is a reasonable time in which to comply with the Notice.
48. At my visit, it appeared that No 4 was only occupied on the ground floor. There was a small amount of furniture on the upper floors, but not arranged in a manner implying active use and there was a general lack of personal possessions. While it would take some time to arrange contractors, it has not been shown that there are particular delays in doing so in the locality and there would appear to be little practical barrier to commencing works on the upper floors relatively quickly.
49. I have no doubt that the rental market in the area is challenging, and the remaining occupiers may experience some difficulty in finding suitable, affordable accommodation. Nevertheless, I have no substantive evidence to support the vague assertions that such requires significant additional time, even considering suitability for any (unspecified) individual needs that may be present.
50. Therefore, it has not been shown that the time specified to comply with the Notices falls short of what should reasonably be allowed in these cases. The appeals on ground (g), therefore, fail.

Other matters

51. I understand that the appellant was taken by surprise by the Notices. However, whether or not they had knowledge of the Council's prior investigations, or had time to seek professional advice before the Notices were served, this has little to do with the merits of the cases, which have been assessed on the basis of the evidence before me now.

Conclusion

52. For the reasons given above, I conclude that the requirements of the Notices are excessive to remedy the breaches of planning control. The appeals succeed on ground (f) to that limited extent. Otherwise, the Notices are upheld.

Formal Decisions

APPEAL A – 2 Buckingham Road

53. It is directed that the enforcement notice is varied by:

In Schedule 4 – What you are required to do to remedy the breach of planning control

- Delete STEP2, STEP3, and STEP4, including the text in the paragraphs alongside the numbering in their entirety and replace with the text
“STEP2 Restore the internal layout of the building to that which existed prior to the breach of planning control taking place, removing any kitchens and bathrooms that did not exist at that time.”
- Delete the text “STEP5” and replace it with the text “STEP3”.

54. Subject to the variations, the enforcement notice is upheld.

APPEAL B – 4 Buckingham Road

55. It is directed that the enforcement notice is varied by:

In Schedule 4 – What you are required to do to remedy the breach of planning control

- Delete STEP2, STEP3, and STEP4, including the text in the paragraphs alongside the numbering in their entirety and replace with the text
“STEP2 Restore the internal layout of the building to that which existed prior to the breach of planning control taking place, removing any kitchens and bathrooms that did not exist at that time.”
- Delete the text “STEP5” and replace it with the text “STEP3”.

56. Subject to the variations, the enforcement notice is upheld.

M Bale

INSPECTOR