



Appeal Decision

Site visit made on 18 August 2026

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

an Inspector appointed by the Secretary of State

Decision date: 17 September 2026

Appeal Ref: APP/T5150/C/24/3357462

61 Alder Grove, London NW2 7DE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Akram Mageed against an enforcement notice issued by the Council of the London Borough of Brent.
- The notice was issued on 5 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 House in Multiple Occupation (HMO) and flats, AND; Without planning permission, the erection of a rear extension and outbuilding in the rear garden of the premises.
- The requirements of the notice are to:
 1. Cease the use of the premises as a House in Multiple Occupation (HMO)
 2. Cease the use of the premises as flats.
 3. Remove all kitchens and cooking facilities, except ONE, from the premises.
 4. Remove all bathrooms and bathroom facilities, except TWO, from the premises.
 5. Demolish the single storey rear extension and outbuilding to the premises.
 6. Remove all associate items, debris and materials, arising from the compliance with the above steps from the premises, so that the premises and the internal layout is returned back to a single family dwellinghouse as existed prior to the unauthorised use and developments took place.
- 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)(a), (b), (c), (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 in part and permission for that part is granted, but otherwise the appeal fails and the enforcement notice is upheld as corrected in the terms set out below in the Formal Decision.

Ground (b)

1. Ground (b) is that the matters alleged in the Notice have not occurred. The onus on this ground (and ground (c)) is on the appellant to prove their case to a standard of the balance of probabilities.
2. The Notice alleges both a material change of use and operational development as separate breaches of planning control. It is undisputed that an extension and outbuilding were built to the rear of the premises. Therefore, ground (b) cannot succeed in connection with the extension and outbuilding, but the way that the property has been used is less straight forward.
3. The appellant's position is that the premises have always been used as a single dwellinghouse. They claim that, while there have, at times, been a large number of people occupying the property, they have been part of a single extended household. In support of this assertion, is an email in November 2024 from the Council's Council Tax department confirming that the property was not being used as five flats, and a tenancy agreement from May 2024 for use of the property by one person '& Her family' ("the Tenancy").

4. The email from the Council Tax department does not clarify how the property is being used, only that it is not 5 flats. The Tenancy states that it relates to 'The dwelling Full bedsit Studio known as: 61 Alder Grove...'. It is unclear whether that relates to the entire property, the words 'bedsit studio' casting some doubt over that. Put alongside the general comments about use, that do not specify any particular occupants or durations of occupancy, the evidence lacks precision and contains some ambiguity.
5. Set against this, the Council has produced records, containing photographs, of the property at various points since 2022. Having seen a lockable door to ground floor accommodation through the front door letterbox, Council officers obtained access in October 2022. Here they saw that the ground floor contained a kitchen and two bedrooms. At the first floor, they saw 2 bedrooms, one with an ensuite, and on the upper floor were 2 bedrooms and a shower room.
6. The appellant's contemporaneous account at this time was that the property was occupied by one large family comprising 4 adults, 2 under 16s and 2 babies. Despite the presence of the lockable door to the ground floor, I note that there were no other kitchen facilities recorded within the property and only two upstairs bathrooms that – if the layout then was as it is when I saw the property now – were probably both ensuite.
7. This would have been consistent with the appellant's position that this was use as a single dwellinghouse. All bedrooms would have been wholly dependent on the ground floor kitchen – whether or not it was kept locked. Importantly, while it might have been an HMO, I find that during 2022, the property probably did not contain any flats.
8. There is no particular evidence about what happened between then and the Council's next visit. A licence for an HMO was granted in November 2022, but the appellant says that was due to a misunderstanding over the need for one. Either way, the presence of a licence does not mean that the premises were actually used in that way.
9. The Council's next recorded visit to the premises was on 27 March 2024 while accompanying an appeal site visit relating to a rear extension. Photographs from that visit indicate that renovation works were being undertaken. They appear to show carpets under protective covers, and new kitchen units had been installed in first floor rooms.
10. It is then known that the Tenancy was entered into in May 2024 for the 'Full bedsit Studio'. As noted, it is unclear how much of the property that Tenancy related to. However, an environmental health officer visited on 8 October 2024 and reported that there were 3 flats at the property – two on the first floor, and one at ground floor. Photographs from that visit show the first floor kitchens in use, with crockery, pans and the like piled around the sinks.
11. The appellant contends that, at this time the property was still being occupied as a single dwellinghouse by an extended family whose cultural background might explain a requirement for multiple kitchens. I accept that cultural differences might lead to different patterns of occupancy and use within a single family dwelling environment. As such, the existence of other kitchens might not automatically mean that the matters alleged had occurred. However, there is no actual explanation of who was occupying the property, what facilities they needed and

why. This vague, generalised, assertion is not a compelling explanation in the face of the Council's photographs and visiting officer's recorded observations that the property was in use as 3 flats, which cast substantial doubt on the appellant's version of events.

12. A few weeks later, on 29 October, the Council's officers visited again and found further modifications to the property. The lockable door to the ground floor had been removed, there is no mention of first floor kitchens in their account and none can be seen in the photographs. From the limited evidence, the layout appeared to have become broadly aligned with what I saw – a bedroom, living room and kitchen at ground floor; two bedrooms at first floor (with an ensuite in the back room); and two bedrooms on the upper, attic, floor (with and ensuite in the back room).
13. There is no clear evidence about occupancy at this time, but the Notice was served 7 days later. However, even if the lockable ground floor door had only recently been removed, the evidence, particularly absence of first floor kitchens, appears to indicate that it was not being used for flats.
14. When I visited, there was some indication that there might be an HMO use ongoing, in that the ground floor front room was independently lockable and appeared intensively occupied. However, there were also hallmarks of a single dwelling use from the way that possessions were distributed around the property: Notably, other than that front room, the bedrooms were lightly used and the communal, living spaces, were clearly heavily used.
15. Whether or not there had been an HMO use by the time the Notice was issued, I have found that there was no use as flats at any time there might have been. When there was probably a use as flats, the layout of the property, in particular the kitchen and bathroom arrangement, was not conducive to an HMO use. I find that the property has not been simultaneously in use as flats and an HMO.
16. Even though the appellant's evidence lacks precision and contains ambiguity, therefore, I find that the evidence taken as a whole indicates that, on the balance of probabilities, the matters stated in the Notice have not occurred, insofar as they relate to the use. The ground (b) appeal succeeds on that basis.
17. As this is a Notice targeting a change of use and operational development that has occurred, the logical consequence is to correct the Notice to delete the elements relating to the change of use. That would cause no injustice to the appellant as it is a consequence of their success on this ground, and had the Notice only related to the alleged material change of use, it would have been quashed. If, subsequent to the service of the Notice a use solely as an HMO has arisen, the Council would be able to serve a new Notice in connection with such a use if it were a breach of planning control, and it was deemed expedient to do so. Therefore, no injustice will arise to the Council from the corrections.
18. The remaining grounds of appeal will be considered against the corrected Notice, that is one alleging the erection of a rear extension and outbuilding in the rear garden of the premises.

Ground (c)

19. Ground (c) is that the matters alleged in the Notice do not constitute a breach of planning control. The appellant's position is that the extension was 'permitted development', benefitting from the planning permission granted by the Town and Country Planning (General Permitted Development) Order 2015 (as amended) ("the GPDO").
20. There is no dispute that an extension, exceeding the size of that permitted by the GPDO, was originally built. It appears to have been substantially completed and then split into two buildings, being the extension that now exists and a small, separate outbuilding. The small, separate outbuilding has since been demolished leaving just an extension that may well be within the size limits of the GPDO. However, photographs provided by the appellant on 4 November 2024 show substantial parts of the outbuilding still standing. That was probably still the situation when the Notice was issued a day later.
21. In any event, Article 3(5) of the GPDO indicates that the permission granted by Schedule 2 of the GPDO does not apply if the building operations involved in the construction of the existing building are unlawful. As the unlawful extension had probably been substantially completed and it was that building subsequently altered to create the present extension and outbuilding, the existing building would have been unlawful when the development subject to the Notice was carried out. As such, neither the extension nor outbuilding would have been permitted by the GPDO.
22. The appeal on ground (c), therefore, fails.

Ground (a)

23. Ground (a) is that planning permission should be granted for the matters alleged in the Notice. Even though the situation has changed since the Notice was served, through the removal of the outbuilding, the ground (a) appeal proceeds on the basis of the situation at that time. That is the extension (without any pergola) that currently exists now, and the outbuilding. The main issues are the effect on the living conditions of neighbouring residents and on the character and appearance of the area.
24. As it then stood, the extension and outbuilding combined formed a bulky projection along the shared side boundary with the adjoining neighbour. This would have created a channelled outlook from the neighbouring property between the extension and outbuilding, and its own garage, creating harmful living conditions for the attached neighbour.
25. However, the remaining attached extension has considerably less effect, being only a relatively short projection from the rear of the main two-storey part of the building. As currently built, it has not been shown to adversely affect the living conditions of the adjoining neighbouring resident and is largely screened from the neighbour to the other side by an existing garage building.
26. As viewed from the street, the extension is barely visible. It is also evident from the rear garden environment that there are a large variety of extensions and outbuildings in the area, and a number of buildings around the site are finished with different materials. I, therefore, find that it is not visually obtrusive or out of

character with the area or host dwelling. It has not been shown to be demonstrably contrary to the principles of good design. It complies with those aims of Policies DMP1 and BD1 of the Brent Local Plan 2022 that require development to be of the highest design quality that compliments the locality and provides high levels of amenity.

27. As the outbuilding subject to the Notice was a separate structure, and its subsequent demolition makes it demonstrably severable, it is appropriate to grant permission for part of the matters alleged, being the rear extension.
28. Since the Notice was issued, a timber framed pergola structure was added to the rear of the extension. However, that is separate to the extension and outbuilding present when the Notice was issued, and not part of the matters alleged. I am not, therefore, able to consider whether it should receive planning permission (if it is needed) within the scope of this appeal.
29. The ground (a) appeal, therefore, succeeds in part in that permission should be granted for the rear extension. It should, however, be refused for the outbuilding.

Ground (f)

30. Ground (f) is that the steps required to comply with the Notice exceed what is necessary to remedy the breach of planning control. Following success on ground (b), the remaining steps require the demolition of the single storey rear extension and outbuilding.
31. Although following partial success on ground (a), I am granting permission for the extension, the Notice will remain unaltered. Instead, the appellant can rely on Section 180 of the 1990 Act that where, after the service of an enforcement notice, planning permission is granted for any development carried out before the grant of that permission, the Notice will cease to have effect insofar as inconsistent with that permission.
32. In respect of remedying the breach of planning control still stated in the Notice, the remaining steps are the minimum required to achieve that aim. The appeal on ground (f), therefore, fails.

Ground (g)

33. Ground (g) is that the time specified to comply with the requirements falls short of what should reasonably be allowed. As the corrected Notice leaves only physical works to the existing building and will not result in the loss of anybody's home, there is no substantive evidence to show that the period specified is insufficient. The appeal on ground (g) fails accordingly.

Conclusion

34. For the reasons given above I conclude that the appeal should succeed in part only. The Notice shall be corrected so that it refers only to the unauthorised operational development. Thereafter, I will grant planning permission for the rear extension – being the extension in the form that exists now – but otherwise I will uphold the notice and refuse to grant planning permission in respect of the other remaining part of the matters, being the outbuilding.

35. The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of section 180 of the 1990 Act. As the outbuilding has already been demolished, the practical consequence of this is that no further work is required to the property as a result of this Notice.
36. Should the Council wish to investigate the use of the premises since the issue of this Notice, and any other operational development that may have occurred, that is a matter for them to explore with the appellant outside this appeal process.

Formal Decision

37. It is directed that the enforcement notice is corrected by:

In Schedule 2 – The alleged breach of planning control:

- Delete the text “Without planning permission, the material change of use of the premises to a House in Multiple Occupation (HMO) and flats (“the unauthorised change of use”) AND”.

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

- Delete Steps 1-4 inclusive in their entirety, including the step numbering and the detailed text alongside it.
- Within Step 6, delete the text “, so that the premises and the internal layout is returned back to a single family dwellinghouse as existed prior to the unauthorised use and developments took place”
- Delete the text “STEP5” and replace it with the text “STEP1”
- Delete the text “STEP6” and replace it with the text “STEP2”.

38. Subject to the corrections, the appeal is allowed insofar as it relates to the erection of a rear extension and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended), for the erection of a rear extension.
39. The appeal is dismissed and the enforcement notice is upheld as corrected insofar as it relates to the erection of an outbuilding in the rear garden of the premises and planning permission is refused in respect of the erection of an outbuilding on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

M Bale

INSPECTOR