



Appeal Decision

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2026

Appeal Ref: APP/X5210/C/25/3376816

Land at Flat 1, Mexborough, Pratt Street, London, NW1 0BL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mrs Aysun Alparslan against an enforcement notice issued by the Council of the London Borough of Camden.
 - The notice was issued on 4 November 2025.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the flat to use as temporary sleeping accommodation.
 - The requirements of the notice are to cease the use of the property for temporary sleeping accommodation.
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the grounds set out in section 174(2)(b) and (c) 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 Matters

2. The appeal was made on ground (b), that the matters alleged in the enforcement notice have not occurred as a matter of fact. However, the appellant's case also appears to be that the alleged use does not amount to a material change of use. Thus, there is a hidden ground (c) appeal. As the Council has had the opportunity to respond to this matter, I am satisfied that no injustice would arise from considering this ground of appeal.
3. No site visit was necessary in this case as the appeal can be determined based on the written evidence. There were no objections from the parties to this approach, and I am satisfied no injustice would be caused.

The appeal on ground (b)

4. An appeal on ground (b) is brought on the basis that the matters stated in the notice have not occurred. The onus lies with the appellant to make their case on the balance of probabilities.
5. There is no dispute that the lawful use of the appeal property is as a flat, which occupies the ground floor of a block of flats. The notice alleges a material change of use of the flat to use as temporary sleeping accommodation.
6. The appellant's evidence includes a signed lease agreement for the flat which is for a 24 month term from September 2024 to September 2026. However, the agreement only indicates a legal entitlement to occupy the flat and it does not demonstrate that it was physically occupied during this period or that the alleged use as temporary sleeping accommodation did not take place.

7. The Council's evidence from October 2025 shows that the flat had been advertised on several accommodation booking websites, including Booking.com. The sites describe the flat as being suitable for a city break or those on business and provide details of availability, the house rules including check in and check out times, the facilities available in the flat, and proximity to local attractions. The photographs on the sites appear to indicate that the flat was arranged as guest accommodation, and there are a number of visitor reviews which attest to that use.
8. The appellant considers that there are inconsistencies within the website listings provided by the Council. In particular, some listings identify a slightly different address or postcode to that of the appeal property, and certain photographs appear to depict layouts or features which the appellant says do not exist within the appeal property, including a bathroom window. Whilst these reduce the weight I attach to the listings, online accommodation listings are not always precise, and I have considered the evidence in the round. Notwithstanding the discrepancies, some of the listings do appear to relate to the appeal property, including photographs of key elements of the accommodation and details of the facilities available. The listings therefore provide evidence that the property was advertised and available for use as temporary sleeping accommodation.
9. Moreover, whilst the appellant says they were unaware of, and did not consent to, the use as temporary sleeping accommodation, their own evidence points towards some short-term letting having taken place. Their tenant initially stated that no short-term letting had occurred, but subsequently confirmed that the flat had been used for limited short-term letting albeit only during periods when they were not residing at the property. The inconsistency between those accounts reduces the weight that I attach to the tenant's evidence, as does the fact that their assertions are not provided in the form of a sworn statement or statutory declaration. Nevertheless, the acknowledgement of that activity is contrary to the appellant's principal case that such use did not occur.
10. Although the appellant may have taken steps to terminate the tenancy and prevent any further use of the property for temporary sleeping accommodation, an appeal on ground (b) cannot succeed simply on the basis that the alleged activities have ceased. This is because s174(2)(b) of the Town and Country Planning Act 1990 (as amended) is worded in the past tense, and the question is whether the breach had occurred by the date of issue of the notice.
11. Short-term letting may have taken place elsewhere within this block of flats, as indicated by the presence of key boxes to some of the other flats, but this is of little relevance to the ground (b) appeal which is concerned only with whether the breach had occurred at the appeal site itself.
12. The appellant states that the Council's references to Ayaz Management Limited relate to her husband, who is no longer employed or involved in that company. Be that as it may, those references have little bearing on my decision which is based on the evidence relating directly to the use of the appeal property during the relevant period.
13. All of the above considered and having regard to the evidence before me, I conclude that, on the balance of probabilities, a material change of use to temporary sleeping accommodation had occurred by the date of the notice as a matter of fact. The appeal on ground (b) must therefore fail.

The appeal on ground (c)

14. An appeal on ground (c) is that the matters alleged do not constitute a breach of planning control. As with ground (b), the onus of proof lies with the appellant, the relevant test of the evidence being the balance of probabilities.
15. The concept of a material change of use is not defined in statute or statutory instrument and therefore it is a question of fact and degree in each case. For there to be a material change of use, there needs to be some significant difference in the character of the activities from what has gone on previously. Case Law¹ has established that it was not correct to say either that using a dwelling for commercial holiday lettings would never amount to a material change of use or that it would always amount to a material change of use. It is a matter of fact and degree and would depend on the “particular characteristics of the use as holiday accommodation.”
16. S25A of the Greater London Council (General Powers) Act 1973 sets out that the use as temporary sleeping accommodation of any residential premises in Greater London involves a material change of use of the premises and each part of the premises so used. S25A(1) of that Act (as inserted by the Deregulation Act 2015) states that, despite the wording of S25(1), the use as temporary sleeping accommodation of any residential premises in Greater London does not involve a material change of use if two conditions are met. They are set out in S25A(2) and S25A(3). The first is that the sum of: (a) the number of nights of use as temporary sleeping accommodation; and, (b) the number of nights of each previous use of the premises as temporary sleeping accommodation in the same calendar year, does not exceed 90. The second is that, in respect of each night which falls to be counted under S25A(2)(a): (a) the person who provided the sleeping accommodation for the night was liable to pay council tax in respect of the premises, or (b) where more than one person providing the sleeping accommodation for the night, at least one of those persons was liable to pay council tax in respect of the premises.
17. The dispute is over whether the use as temporary sleeping accommodation exceeded the 90 nights permitted for such use in a calendar year in Greater London. The appellant’s tenant says that it did not. However, the Council’s evidence indicates that between January and September 2025 the use for temporary sleeping accommodation exceeded the 90 nights, which is indicative of a material change of use. The appellant has submitted no substantive evidence, such as booking records or occupancy schedules, to demonstrate the number of nights for which the flat has been used as temporary sleeping accommodation. Although the appellant has stated that they are willing to provide such records if required, it remains the case that none have been provided. They have not demonstrated that the 90 nights threshold was not exceeded.
18. The evidence therefore points to a substantial level of short-term occupation in 2025 from visitors staying for relatively brief periods. That use is of a materially different character in terms of the pattern and nature of occupation compared to the lawful use as a flat, whose occupants would be expected to live at the premises on a longer term and more settled basis. The frequent turnover of visitors and increased comings and goings have the potential to result in a greater impact

¹ Moore v SSCLG & Suffolk Coastal DC [2012] EWCA Civ 2101.

on neighbouring occupiers due to noise and disturbance. Given the transient nature of the occupiers of the temporary accommodation and their likely limited connection to the local area, they would be less likely to have regard to neighbouring residents or to strongly contribute to a sense of social cohesion.

19. For these reasons I conclude, as a matter of fact and degree, that a material change of use had occurred, for which planning permission is required. As there is no evidence of such permission having been granted, the development constitutes a breach of planning control. The appeal on ground (c) therefore fails.

Conclusion

20. For the reasons given above, I conclude that the appeal should not succeed, and the enforcement notice will be upheld.

M Ollerenshaw

INSPECTOR