



Appeal Decision

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2026

Appeal Ref: APP/Y5420/C/25/3365190

37 Morrison Avenue, Tottenham, London N17 6TU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Dominic Woodley-Jones against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The notice was issued on 24 April 2025.
 - The breach of planning control as alleged in the notice is the unauthorised use of the property as a House in Multiple Occupation (HMO).
 - The requirements of the notice are to: Cease the use of the property as a House in Multiple Occupation.
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the ground set out in section 174(2)(b) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is corrected by:
 - In section 3 of the notice the deletion of the word “unauthorised” and replacement with the words “The material change of”, and the deletion of the word “as” and replacement with the word “to”.
2. Subject to the above corrections, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matter

3. The Notice has been appealed on ground (b) only, and therefore the planning merits of the development are not relevant to this appeal. As such, a site visit would not help me reach a decision. Consequently, I advised the main parties of my intention to determine the appeal without a site visit. No objections were received to this approach, and I am satisfied no injustice would be caused.

The Notice

4. It is important for me to get the notice in order. On an appeal any defect, error, or misdescription in an enforcement notice may be corrected using the powers available in section 176(1)(a) of the Town and Country Planning Act 1990 as amended (“the 1990 Act”), or the terms varied, where the correction or variation will not cause injustice to the appellant or the local planning authority.
5. Section 55(1) of the 1990 Act is clear that it is the making of any material change in the use of any buildings or other land that constitutes development. The allegation in the enforcement notice does not expressly refer to a material change of use without planning permission. Instead, it simply alleges “the unauthorised use of the property as a House in Multiple Occupation (HMO)”. The notice though

does make reference to section 171A(1) of the 1990 Act, which relates to the carrying out of development without the required planning permission.

6. I shall therefore correct the notice to allege “The material change of use of the property to a House in Multiple Occupation (HMO)”. As it is clear that the main parties have understood the alleged breach, I can make this correction without injustice to the appellant or the local planning authority.

Ground (b)

7. An appeal on ground (b) is that the matters stated in the notice have not occurred, as a matter of fact. The burden of proof is on the appellant, and the relevant test of the evidence is on the balance of probabilities. The appellant must therefore demonstrate that the matters alleged in the notice had not occurred on or before the date on which the notice was issued, that being 24 April 2025.
8. The appellant’s case is that the appeal property is not in use as a House in Multiple Occupation (“HMO”) and is instead rented out to a married couple as a single dwelling house. However, beyond a short-written statement the appellant has provided no evidence to support his argument that there had not been a material change of use of the property. Documentary evidence to support the appellant’s case, such as tenancy agreements, bank statements showing the payment of rent, utility bills, or statutory declarations of any occupant(s), are conspicuous by their absence.
9. An appeal on ground (b) also cannot succeed simply on the basis that the alleged activities have ceased. This is because section 174(2)(b) of the 1990 Act is worded in the past tense, and the question is whether the breach had occurred by the date of issue of the notice. Although the appellant’s written statement claims that the property is (my emphasis) rented out to a married couple, no information regarding when their occupation began has been provided, or whether the property had previously been in use as a HMO prior to their occupation. Therefore, even if the use of the property as a HMO had ceased prior to the notice being issued, the breach of planning control would have occurred as a matter of fact.
10. Overall, there is a lack of evidence provided, and it follows that the appellant has failed to discharge the necessary burden of proof. I therefore find, on the balance of probabilities, that the appellant has failed to demonstrate that the material change of use of the property to a HMO had not occurred on or before the date that the notice was issued. Accordingly, the appeal on ground (b) fails.

Conclusion

11. For the reasons given above I conclude that the appeal fails. I have therefore upheld the enforcement notice as corrected.

David Jones

INSPECTOR