

Case Name: *Sentinel Estates Ltd v Secretary of State for Housing, Communities And Local Government & Anor* [2026] EWHC 1122 (Admin) (12 May 2026)

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Commentary: Neil Cameron KC, sitting as a Deputy High Court Judge, dismissed an appeal against the decision of an Inspector to uphold an enforcement notice issued against Sentinel Estates Ltd ('the Appellant') by the London Borough of Brent. Cameron KC held that for the purposes of section 171B(2) TCPA 1990 (prior to its amendment by section 115 of the Levelling Up and Regeneration Act 2023 ('LURA')), the term 'single dwellinghouse' does not include HMO use. Consequently, for a material change of use to HMO use occurring prior to the commencement of section 115 of the LURA on 25 April 2024, it is necessary to show 10 years of continuous use as a HMO in order to be immune from enforcement. The shorter four-year period applicable to 'single dwellinghouses' does not apply. As Cameron KC had already decided to dismiss the appeal on procedural grounds, this conclusion was technically *obiter*.

Background Facts

In January 2020, the London Borough of Brent issued an enforcement notice in respect of the unauthorised material change of use of a family dwelling into a House in Multiple Occupancy ('HMO') and flats ('2020 EN'). In April 2022, an Inspector quashed the 2020 EN, finding as a matter of fact that the allegation of mixed use as a HMO and flats was incorrect because the house was being used as a HMO. In March 2023, Brent issued a further enforcement notice alleging a material change of use of the premises from two flats to a HMO ('2023 EN').

In the course of a subsequent appeal against the 2023 EN, the Appellant submitted that the house had been used as a HMO since 2016/2017. In its Grounds of Appeal, the Appellant noted in the 'Legal Background' that the four-year rule applied – although it was subsequently disputed before the High Court whether the Appellant had relied on the four-year rule at the appeal. The Inspector applied the ten-year rule, which required the Appellant to show continuous HMO use from March 2013. The appeal against the validity of the enforcement notice was consequently dismissed.

Procedural Issue

The Secretary of State submitted that the Appellant should not be permitted to raise the issue of whether the four-year or ten-year rule applies to HMOs, because it had accepted that the ten-year rule applied before the Inspector. On the basis of the Appellant's final written documents in the planning appeal, Cameron KC agreed that this had been the Appellant's position, notwithstanding references to the contrary in the 'Legal Background' section. Thus, he held that the Appellant had raised a new point before the High Court.

The principles to be applied when a party wishes to raise a new point on appeal are found in *Singh v Dass* [2019] EWCA Civ 360. First, an appellate court must be cautious before allowing a new point to be raised. Second, an appellate court will not generally allow a new point to be raised where it would necessitate new evidence, or had it been raised

below the trial would have been conducted differently with regards to the evidence. Third, even where a pure point of law is raised, an appellate law will only consider it if the other party has had adequate time to deal with the point, the other party has not acted to its detriment on the other party's failure to raise it earlier, and the other party can be protected in costs.

Cameron KC held that if the Appellant had relied on the four-year rule, the Inspector would then have been required to consider the 'second bite' provisions in section 171B(4), whereby a planning authority may bring enforcement action after the end of the relevant immunity period if it purported to bring enforcement action during that period. The later enforcement action must relate to the same actual breach as the prior enforcement action, albeit the breach may be described in different terms (*Jarmain v. Secretary of State for the Environment* [2000] JPL 1063).

Consequently, the Inspector would therefore have had to determine whether the 2020 EN and the 2023 EN described the same actual breach of planning control. If he had held that they did, enforcement action may have been brought within time even if the four-year time period – running from 2016/17 – had applied. Cameron KC held that this was a mix question of fact and law, consideration of which would have required the planning appeal to have been run differently with regard to the evidence. The criteria in *Singh v Dass* were therefore not satisfied and the Appellant should not be allowed to raise the new point. The appeal was accordingly dismissed on this basis.

Statutory Interpretation

Because the point had been argued before him, Cameron KC gave a view on whether the phrase 'single dwellinghouse' in section 171B(2) encompasses HMO use. On a plain reading, Cameron KC noted that: "*When considering use, the word "single" can be contrasted with the word "multiple". As the word 'single' qualifies use, it excludes uses other than "use as a single dwellinghouse" such as use as a dwellinghouse in multiple occupation*" [105].

In addition, Cameron KC recalled that statutes must be interpreted in light of their purpose. He further concluded that the criteria in *Pepper v Hart* were satisfied in this case. Consequently, he relied on Parliamentary material in order to conclude that the purpose of the provision was to limit the ambit of the four-year rule by excluding multi-occupation. This interpretation accorded with the express guidance that the provision does not include HMOs contained in the now withdrawn Annex 2 of Circular 10/97. Cameron KC held that this Circular was still persuasive.

Cameron KC dismissed the relevance paragraph L.1(a) of Class L of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, which expressly incorporates HMOs within the meaning of 'single dwellinghouse'. He did so on the grounds that the two provisions were not enacted contemporaneously.