

Case Name: *Manchester City Council v Secretary of State for Housing, Communities and Local Government* [2021] EWHC 858 (Admin) (23 April 2021)

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Commentary:

This was a successful High Court case quashing a decision made by a Planning Inspector on behalf of the Respondent Secretary of State, pursuant to statutory appeals by the Appellant, Manchester City Council, under sections 288(2) and 289(1) of the Town and Country Planning Act 1990 (the 1990 Act).

The Inspector was appointed to determine an appeal brought by the Interested Parties (the owner and one of the occupiers of the Property) under s.174 of the 1990 Act against an Enforcement Notice issued by the Council in respect of the premises at 3 Grandale Street, Manchester, M14 5WS (the Property). The Enforcement Notice alleged that there had been a material change of use without planning permission – turning a dwellinghouse (Class C3 as it then was) into 4 commercial units operating as a travel agent (Class A1), 2 couriers' offices (Class B1) and a therapy/medical treatment room (Class D1).

The Inspector allowed the appeal, quashed the notice and granted planning permission for the development already carried out (i.e. the material change of use subject to one condition restricting hours of operation and deliveries).

The Council sought permission to appeal and his Honour Judge Eyre granted permission in relation to Ground 1 only; that the Inspector erred in not imposing conditions on the grant of planning permission. The Council argued that it was not legally sufficient for the Inspector to express limitations in the description of the permission. The Inspector needed to impose planning conditions limiting the use of the rooms to the specified business types (I'm Your Man case relied on).

In response, on behalf of the Secretary of State, it was argued that the Property was one planning unit in mixed use and therefore did not fall within the Use Classes Order and the GPD Order and that a proposed change of use of any of the units forming the single planning unit would require planning permission and that the Inspector had been entitled to conclude that no conditions were necessary to achieve his intention of limiting the Property's uses. In support of the submission that mixed-use properties do not benefit from permitted development rights the Belmont Riding Centre case was relied upon.

Mr Justice Julian Knowles agreed with the Council and held that each room was a planning unit and the way in which the Inspector expressed his decision did not give legal effect to his intention to restrict the uses of the four units at the Property (because of the rule in the I'm Your Man case). He further held that the Inspector's decision can only properly be construed as rejecting the conditions as unnecessary because he considered that the planning permission lawfully specified and limited the use of the Property. However, Mr Justice Julian

Knowles concluded that the limitation is of no legal effect, and therefore the decision betrays an error of law and must be quashed.

Case summary prepared by Amy Fender