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Impey v Secretary of State for the Environment: QBD 2 Jan 1983

The owner of a dog kennels carried out works both internal and external to change the building into two residential units. The Council served an improvement notice. The respondent found that no material change of use had yet taken place.

Held: The change of use could take place before the building was actually used for the new use. Both the physical state of the premises and the owner's intentions could be taken into account. In this case the evidence was inconclusive and the matter was remitted.

The court was asked whether development had occurred in the form of a material change of use of a building from the breeding of dogs to residential use.

Donaldson LJ said: 'Change of use to residential development can take place before the premises are used in the ordinary and accepted sense of the word, and [counsel] gives by way of example cases where operations are undertaken to convert premises for residential use and they are then put on the market as being available for letting. Nobody is using those premises in the ordinary connotation of the term, because they are empty, but there has plainly, on those facts, been a change of use.'

The question arises as to how much earlier there can be a change of use. Before the operations have been begun to convert to residential accommodation plainly there has been no change of use, assuming that the premises are not in the ordinary sense of the word used for residential purposes. It may well be that during the course of the operations the premises will be wholly unusable for residential purposes. It may be that the test is whether



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