



Appeal Decision

Site visit made on 11 December 2024

by Mr James Blackwell LLB (Hons) PGDip, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 10 January 2025

Appeal Ref: APP/Y5420/C/23/3315563

2 Farningham Road, Tottenham, London N17 0PP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Jacob Schreiber (estate of) against an enforcement notice issued by the Council of the London Borough of Haringey.
- The notice was issued on 17 January 2023.
- The breach of planning control as alleged in the notice is “without planning permission, the material change of use to a House in Multiple Occupation (sui generis use).
- The requirements of the notice are to:
 - (1) Cease the use of the property as a House in Multiple Occupation.
 - (2) Remove from the property any internal door locks into habitable rooms facilitating use of the property as a House in Multiple Occupation.
 - (3) Remove from the property any resultant debris.
- The period for compliance with the requirements is specified as 24 August 2023.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary Matters

1. Since the appeal start date, the National Planning Policy Framework has been updated. I have determined this appeal with regard to the latest version, published in December 2024.

Main Issues

2. The main issues in respect of the ground (a) appeal, being the deemed planning application, are:
 - whether the principle of the development is acceptable with regard to development plan policy; and
 - the effect of the development on the living conditions of current and future occupiers of the property, and the living conditions of neighbouring occupiers.

Reasons

Principle of Development

3. Policy DM17 of the Council’s Development Management DPD 2017 (DMDPD) sets out a number of criteria which must be met, for the conversion of a larger home to a House in Multiple Occupation to be permitted. The first of these criteria says the

gross original internal floor space of the existing dwelling must be greater than 120sqm.

4. The gross internal floor space of the original dwelling is understood to have been approximately 104sqm, and therefore falls short of this requirement. However, the property has been sympathetically extended, and the floor space of the property is now understood to exceed 150sqm. Notwithstanding the technical policy conflict in terms of the original dwelling, the property now comfortably exceeds the prescribed size parameters, and therefore broadly meets the policy aims in this regard.
5. Whilst no details of other HMOs along the road have been submitted, I saw nothing on my site visit to suggest there are any issues with over-concentration. Moreover, even though the property has been used as an HMO for a number of years, there is little evidence before me to suggest it has resulted in adverse amenity impacts within the locality, particularly in terms of noise or disturbance. I am therefore satisfied that the development does not give rise to any significant adverse amenity impact on the surrounding neighbourhood, and it therefore meets criterion (b) of policy DM17.
6. The property has been issued an HMO licence, which confirms it is suitable for occupation, and there is no suggestion that the property does not meet the appropriate Haringey Environmental Health Standards. The property is also located within reasonable walking distance of public transport connections and public open space. On the evidence before me, the development therefore meets the requirements of criteria (c) and (d) of Policy DM17.
7. In terms of space, the bedrooms are reasonable in size, and each include ensuite bathroom facilities. There are two separate kitchens at ground floor level which provide adequate kitchen facilities for its occupiers. Whilst there is currently no other communal space within the property (such as dining or lounge space), the proposed conversion of one of the ground floor bedrooms to additional communal space would overcome this concern, whilst also facilitating access to the garden for all occupiers. This could be secured by condition. There is also ample space outside of the property for sufficient refuse facilities, which was evident on my visit. Subject to the increased communal space, the development would therefore meet criteria (e) and (f) of policy DM17.
8. More broadly, the supporting text to policy DM17 highlights the potential for HMOs to reduce the availability of smaller family housing, for which there is a significant need. However, the policy also acknowledges the importance of HMO accommodation in meeting housing needs, especially for low-income residents, young people and those needing temporary accommodation. In turn, whilst the development does result in the loss of a family dwelling, it still helps to meet the housing needs of the borough, and is therefore consistent with Policy DM17 in this regard.
9. Overall, for the reasons outlined, I am satisfied that the principle of the development is acceptable with regard to Policy DM17 of the DMDPD. It is also consistent with Policy H9 of the London Plan (2021), which says HMOs of a reasonable standard should generally be protected, as they play an important role in meeting local and strategic housing needs.

Living Conditions

10. Use of the property as a HMO is likely to have increased the comings and goings to and from the property, as the occupiers are made up of separate independent households. In some circumstances, this can lead to adverse impacts on neighbouring occupiers, particularly in terms of noise and disturbance. This is a particular risk where there is an over-concentration of HMOs in a particular area.
11. In this instance, the property is located at the very end of the cul-de-sac, and is separate from the terraces along either side of the road. This reduces the scope for adverse impacts on neighbours, particularly with regard to noise or disruption. Reflecting this, there is little evidence to suggest the change of use has led to any particular amenity concerns among neighbouring properties, nor do there appear to be any issues in terms of HMO over-concentration.
12. The standard of living accommodation within the HMO is also reasonable, and subject to the conversion of one of the bedrooms to additional communal space, the property would provide acceptable living conditions for its occupiers.
13. Overall, I am satisfied that the development does not harm the living conditions of current or future occupiers of the property. I am also satisfied that the change of use does not unduly harm the living conditions of any neighbouring occupiers. The development is therefore consistent with Policies SP2 and SP11 of the Council's Local Plan (2017), Policies DM1 and DM17 of the DMDPD and Policy D6 of the London Plan (2021), insofar as they seek to ensure development achieves quality living accommodation of good design.

Conclusion – Ground (a)

14. The material change of use of the property to a HMO (sui generis use) is consistent with the development plan as a whole, and planning permission should be granted for the development. The appeal on ground (a) therefore succeeds.

Other Matters

15. The modifications to the ground floor to increase the extent of communal space which have been proposed by the appellant would necessitate the loss of one bedroom. The resultant HMO would therefore have a maximum occupancy of seven people, and would continue to be a House in Multiple Occupation (sui generis use) as alleged in the notice. In turn, the modified scheme would still constitute the whole of the matters alleged in the notice, in accordance with the provisions of s177(1)(a) of the 1990 Act. I am therefore satisfied that planning permission can be granted on ground (a) for the modified scheme, which shall be secured by condition.
16. The time for compliance specified in the enforcement notice is 24 August 2023. Whilst the time for compliance should be expressed as a period of time and not as a specific date, I have not made any amendments to the notice in this regard, as it is being quashed.

Conditions

17. The Council has not provided any suggested conditions in the event the appeal is allowed. Nonetheless, I consider two conditions are necessary to ensure the acceptability of the scheme, which I have considered in line with the tests set out in the Framework and Planning Practice Guidance.
18. Firstly, I have included a condition which restricts the total occupancy of the HMO, to ensure the intensity of its use is properly controlled.
19. Secondly, I have included a condition which requires details of the communal space proposed by the appellant to be submitted and approved by the Council, and then subsequently implemented. This is to ensure a satisfactory living environment for the occupiers of the property. There is a strict timetable for compliance because the permission is being granted retrospectively and it is not possible to use a negatively worded condition to secure the approval and implementation of the scheme before the development takes place. As worded, the condition will ensure the development can be enforced against if the requirements are not met. Both parties were given the opportunity to comment on the proposed condition, and neither objected within the timeframe given.

Conclusion

20. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice. The enforcement notice will be quashed.

Formal Decision

21. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the material change of use to a House in Multiple Occupation (sui generis use) at 2 Farningham Road, Tottenham, London N17 0PP as shown on the plan attached to the notice and subject to the following conditions:

- 1) The property shall be occupied by a maximum of seven people at any one time.
- 2) Unless within 3 months of the date of this decision a scheme for the provision of additional kitchen/dining communal space at ground floor level, the extent of which shall be no less than the area shown on Existing Ground Floor Plan (Dining Area Proposed), is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 6 months of the local planning authority's approval, the use of the site as a House in Multiple Occupation (sui generis use) shall cease until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 9 months of the date of this decision, the use of the site as a House in Multiple Occupation (sui generis use) shall cease until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

James Blackwell

INSPECTOR