



Appeal Decision

Site visit made on 17 April 2025

by **C Harding BA (Hons) PGCert PGDip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 May 2025

Appeal Ref: APP/G5750/W/24/3351220

57 Barking Road, London E16 4HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms Rahima El Harrak against the decision of the Council of the London Borough of Newham.
 - The application Ref is 24/00108/FUL.
 - The development proposed is change of use of existing property to large house in multiple occupation (HMO) (*sui generis*).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is described on the planning application form as *“The proposal involves renewing the House in Multiple Occupation (HMO) license for a property whose current license has expired. However, obtaining a new HMO license necessitates planning permission. It's essential to note that there will be no alterations to the building's structure, and the property will remain the same size throughout the process.”*
3. The Council described the proposal as *“Change of use of existing property to large house in multiple house occupation (HMO) (sui generis)”*, and this description has also been used by the appellant on the appeal form and within their evidence.
4. It is evident that the property may have functioned as a House in Multiple Occupation in the past, although it is unclear whether such use was authorised. However, the property is referred to within the appellant's statement of case as being an existing five-bedroom flat (Use Class C3) and this aligns with the Council's position. Therefore, I have also considered the proposal on the basis that the property currently comprises a dwelling within Use Class C3.
5. Having regard to these factors, and in the interests of clarity, I have also used the description of the development set out on the Council's decision notice, as it more accurately describes the proposal.
6. I have been provided with an additional drawing, which shows alterations to the lower ground floor of the property to provide an additional shower room. I saw that this work had already been carried out at the time of my visit. The indicated amendments are minor in nature and the Council has had opportunity to comment upon them, although it has chosen not to. The nature of the changes are such that

my consideration of them is unlikely to prejudice any other party. I have, therefore, had regard to these drawings in my consideration of the appeal.

Main Issues

7. The main issues are;

- the effect of the proposal upon the achievement of balanced and mixed communities, and;
- whether the proposal would provide adequate living conditions for future occupiers with particular reference to access to bathroom facilities.

Reasons

Balanced and mixed communities

8. The Newham Local Plan ('NLP') spatial strategy supports the stabilisation of communities, and protecting and increasing family housing. NLP Policy S1 states that mixed and balanced communities should be achieved where homes are not created at the expense of the provision and protection of family housing. NLP Policy H3 states that Houses in Multiple Occupation ('HMOs') should be purpose-built or converted from premises other than family-sized dwellings. NLP Policy H4 sets out the specific protection of 3 and 4+ bedroom housing.
9. The proposal would result in the loss of a single, existing five-bedroom dwelling. NLP Policy H4 sets out circumstances where the conversion of large family dwellings to other uses may be considered acceptable. These are stated as being where proposals are located in town or local centres, are located above an existing, occupied commercial unit, do not have access to external private amenity, and have poorly defined entrances.
10. It is not a matter of dispute between the parties that the appeal property is located within a town centre and above an existing commercial unit, and I have no reason to disagree. However, I saw that the appeal property has a rear garden, and that it had a clearly defined entrance via a separate doorway onto a busy street. As a result, and despite the good locational credentials of the appeal site in terms of access to public transport and local services, the appeal property does not represent circumstances where the conversion of the property to another use would be acceptable on the basis of the terms of NLP Policy H4.
11. It has been put to me that there is a need for the type of residential accommodation proposed. I accept that there is a general need to boost the supply of housing, and acknowledge that HMOs have an important role to play in meeting London's housing needs. However, no details of specific unmet need for HMOs within the borough have been put before me, and it is but one form of tenure required within a mix of housing in order to meet the overall need.
12. This is reflected within the policies of the NLP, which are evidence-based and together identify that a balanced mix of housing supply cannot be achieved if larger family homes are lost to other uses, and that the retention of family homes is an important strategic theme as a result. It has not been shown, therefore, that the creation of an additional HMO would outweigh the loss of an existing large family dwelling, and the proposal would therefore harm the achievement of mixed and balanced communities.

13. I have been referred to an appeal decision in a neighbouring London borough where it was found that the change of use of a property to a large HMO would not result in a noticeable effect on the overall housing mix. While there are similarities between the cases, I note that there are also differences, and that the Inspector in that instance identified that the property in question had not functioned as a large family dwelling in its recent past, and before that had been in use as an HMO. The circumstances, therefore, were materially different from the circumstances of the case which is before me and do not indicate that the harm that I have identified would not occur.
14. The proposal would harm the achievement of balanced and mixed communities. It would be contrary to NLP Policies S1, S6, H1 and H4, as well as London Plan ('LP') Policies GG4, H8 and H10. Together, and amongst other factors, these policies set out the requirement for sufficient homes of appropriate types and tenures, and the importance of achieving balanced communities.

Living conditions

15. The East London HMO Guidance indicates that for an HMO capable of accommodating between 6 and 10 residents, such as the proposal which is before me, that at least two bathrooms must be provided, one of which must contain a bath. It also states that bathroom facilities must be within one floor of each bedroom.
16. The proposed plans indicate that residents of the proposal would be provided with shower rooms at lower ground floor, first floor level and second floor level, while a "semi-first floor" room would be provided with an ensuite including a shower cubicle. No baths are indicated.
17. The East London HMO Guidance document ('the guidance') provides standards in relation to the configuration of HMOs. However, the status of the document and whether it has been subject to any public consultation or formal adoption as part of the development plan is unclear. The document acknowledges that it is only guidance and is intended to be flexible. The weight to which I afford it is therefore reduced. Nevertheless, it provides a useful starting point as an indication as to the level of basic facilities that should be provided to residents in order to achieve suitable living conditions.
18. The provided plans demonstrate that bathroom facilities would be available within one floor for occupiers of all bedrooms and the proposal would be acceptable in this regard. In total, the proposal would result in four shower cubicles to serve up to 7 people.
19. While this may not be unreasonable in numerical terms, and it may be possible to achieve suitable water pressure between the various shower cubicles, there may be circumstances where a resident is physically unable, or where it may not be appropriate, to use a shower cubicle. In such circumstances, the total absence of other means to achieve basic cleanliness, such as a bath, would be severely harmful to the living conditions of such occupiers.
20. Therefore, the proposal would fail to provide adequate living conditions for future occupiers with particular reference to bathroom facilities. It would be contrary to NLP Policies SP1 and SP2 which together, and amongst other issues, these

policies highlight the importance of high-quality design and improving housing quality.

21. The Council's reason for refusal in relation to this main issue also refers to conflict with LP Policy H9, which relates to efficient use of existing housing stock and NLP Policies H1 and H4, which relate to housing provision. I have not been directed to any specific conflict with the wording in these policies, and I consider that they are not relevant in this instance.

Other Matters

22. It is stated that the property would be managed to a high standard. While I have no reason to doubt this, it would not overcome the harm that I have found.
23. I understand that the appeal site lies within proximity of one or more European Designated Sites. The Conservation of Species and Habitat Regulations 2017 require the Competent Authority to consider whether or not the proposal could adversely affect the integrity of the protected sites, either alone, or in combination with other plans and projects. This responsibility falls to me in the context of this appeal.
24. Had I come to a different conclusion in relation to the main issues, I would have sought additional information in order to undertake the appropriate assessment, and be satisfied that the integrity of European Sites would not be adversely affected. However, as I am dismissing the appeal for other reasons, this has not been necessary.

Conclusion

25. The proposal would conflict with the development plan and there are no material considerations, including the Framework, which would indicate making a decision other than in accordance with it. I therefore conclude that the appeal should be dismissed.

C Harding

INSPECTOR