



Appeal Decisions

Site visit made on 25 March 2025

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2025

Appeal A Ref: APP/Y5420/C/23/3319127

80 Shelbourne Road, Tottenham, London N17 9XY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Antony Karageorghis of Easy Let Properties Ltd against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The notice was issued on 28 February 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use to a small house in multiple occupation (C4 HMO).
 - The requirements of the notice are to cease the use of the property as a House in Multiple Occupation.
 - The period for compliance with the requirement is stated as 4 October 2023.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 (as amended).
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Appeal B Ref: APP/Y5420/W/23/3318949

80 Shelbourne Road, Tottenham, Haringey, London N17 9XY

- 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 Mr Spyros Karayiorgi of Easy Let Properties Ltd against the decision of the Council of the London Borough of Haringey.
 - The application Ref is HGY/2022/4506.
 - The development proposed is change of use from dwelling to House of Multiple Occupancy (HMO).
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Decisions

Appeal A

1. It is directed that the enforcement notice is varied by:
 - 1) inserting (*C4 HMO*) after *occupation* in section five of the enforcement notice (what you are required to do).
 - 2) Substituting six (6) months for 4 October 2023 as the time for compliance.
2. Subject to the variations, the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

3. The appeal is dismissed.

Preliminary Matters

4. The description in the banner heading above in respect of Appeal B is taken from the original planning application form, noting this is not the same as that used by

the Council in their delegated report or decision notice. It appears that the Council unilaterally changed the description based upon the submitted plans, which show six rooms with seven occupants, and the single storey rear extensions and dormer extension to the rear.

5. The appellant stated that the HMO license restricts the use of the property to six people, and they are not seeking to exceed this number. Accordingly, and since this is a matter which could be secured by condition, I shall consider the appeal on this basis.
6. I note the proposed plans show single storey rear extensions and a roof extension however, it appears to me that those developments are those for which a Certificate of Lawfulness (proposed) was granted, reference HGY/2019/0623. Accordingly, and in the absence of an agreed amended description, the subject of Appeal B is the change of use only.
7. A previous planning application was submitted for the 'change of use from dwelling to House of Multiple Occupancy HMO' and was refused by the Council and subsequently dismissed on appeal, reference APP/Y5420/W/22/3293956. Since the development is the same as that previously proposed, it is against that background that I have considered the appeals.
8. In Appeal A, the reasons given for issuing the enforcement notice are not the same as the reasons for refusing planning permission. However, since the appellant confirmed, on the appeal form, that the fee should not be paid because a planning application for the change of use referred to in the notice has been submitted and appealed, I shall consider the appeals together, since the considerations are the same. My assessment is therefore based upon my observations and the proposed plans.
9. I have varied the requirements in Appeal A so that they follow logically from the allegation. There is no injustice since this does not enlarge the scope of the notice.

Appeal A on ground (a) and the deemed planning application and Appeal B

Main issues

10. The main issues are the effect of the development on (i) the availability of smaller family housing in the borough (ii) the living conditions of neighbouring residents with particular regard to noise and disturbance; and (iii) whether the development provides suitable provision for cycle parking and refuse storage (iv) whether the change of use facilitates a car-free development that encourages walking, cycling and the use of public transport.

Reasons

Supply of family housing

11. Policy DM17 of the Development Management DPD Adopted July 2017 (DPD) relates to proposals for the conversion of larger homes to HMOs, and states that they will only be permitted, subject to several criteria, including and relevant to these appeals, that the gross original internal floor space of the existing dwelling is greater than 120 square metres.

12. The explanatory text to the policy acknowledges the role that HMOs play in meeting particular housing needs, especially for low-income residents, young people and those needing temporary accommodation, but that they also reduce the availability of smaller family housing, for which there is a significant need.
13. There is no dispute that original means the dwelling as first built, not as extended. The dispute is about how floorspace is calculated, specifically whether the loft space should be included.
14. There is no definition of floorspace in the policy however, the parties referred to the Royal Institute of Chartered Surveyors (RICS) Code of Measuring Practice (6th Edition) which sets out and is a generally accepted method of calculating Gross Internal Area (GIA). Whilst, in my view floorspace and GIA are not necessarily the same, since the parties have referred to this guidance, I shall consider it.
15. GIA is defined as the area of a building measured to the internal face of the perimeter walls measured at each floor level, and includes, amongst others, areas with a headroom of less than 1.5m, voids over stairwells, areas occupied by internal walls and partitions, columns, piers, chimney breasts, stairwells, lift-wells, other internal projections and vertical ducts.
16. The appellants' case is that the included areas are within the external walls of the building whilst those excluded are outside, and since the loft space previously provided a storage area for the dwelling, it can be regarded as floorspace within the external walls of the building.
17. As already stated, GIA is defined as the area of a building measured to the internal face of the perimeter walls measured at each floor level. Accordingly, I must consider if the loft space, in the original dwelling, could be regarded as a floor level.
18. In my view, it would generally be expected that a floor level would have at the least, a floor/surface which could be walked on, or objects placed on, and/or be accessible by a permanent staircase.
19. There is little detail about what the loft space originally consisted of, for example whether it included a floor. The existing plans indicate that the loft was accessed via a hatch and steps, albeit there is no evidence, nor suggestion that in the original dwelling these steps were fixed or permanent.
20. In the absence of such evidence, the loft space, in the dwelling as originally built, could not be considered a floor level, nor included within the GIA of the original dwelling. In any event, as already stated GIA and floorspace are not necessarily the same thing.
21. Policy DM17 of the DPD seeks to safeguard against the loss of smaller family housing. The original dwelling consisted of a relatively modest three-bedroom, mid-terrace house, and is the type of family housing which the Council seeks to safeguard against the loss of. Indeed, the dwelling is located within the Family Housing Protection Zone, within which the Council seek to protect the remaining stock of family houses (3+ bedrooms).
22. Although there is no definition of floorspace in the policy, in this context, on any reasonable interpretation, floorspace must mean those habitable parts of the dwelling.

23. Since there is no dispute that, excluding the loft, the original internal floorspace of the dwelling is less than 120 square metres, the development does not accord with Policy DM17 of the DPD.

Living conditions

24. There is a shared kitchen with dining area in the property. However, in the absence of alternative amenity space such as a lounge, it seems occupants would spend a reasonable amount of time in their bedrooms. This is a very different use to that of a family, or possibly a household with a more generous and functional communal space.
25. Furthermore, comings and goings to and from the property are likely to be more frequent due to the movements generated by a collection of individuals occupying the property, rather than a single family, because of different timetables and working and socialising patterns, which was acknowledged by the previous Inspector.
26. However, the previous Inspector identified no harm in respect of noise and disturbance. In the absence of explanation, the only difference between the evidence in that and these appeals, is the reference by the Council to holding ‘...records in regard to several complaints received to other council departments regarding anti-social behaviour and noise as a result of the use between 2016 and 2022.’
27. In response the appellants stated that they are aware of two occasions where the Council contacted them in respect of accusations of noise and disturbance, one in 2016 and another in 2022.
28. The use has been ongoing for some time and there is no substantive explanation from the Council about the number of complaints received and whether they were substantiated. Accordingly, there is no substantive evidence that the use has resulted in materially harmful levels of noise and disturbance.
29. I acknowledge that the Council will be best placed and have knowledge of the number of HMOs in the borough, and they provided some evidence in respect of the number of HMOs in the area, nine being on Shelbourne Road. However, there is no analysis or explanation of those figures relative to the number of properties in the area, such that it is not possible to conclude there is an over concentration.
30. Accordingly, for the reasons given, the development accords with Policy DM17 of the DPD, Policy SP2 of the Local Plan¹ and Policy D6 of The London Plan 2021 in so far as they seek to ensure that HMOs do not give rise to any significant adverse amenity impacts on the surrounding neighbourhood.

Cycle and refuse storage

31. The cycle parking and refuse storage is as considered by the previous Inspector, and since there has been no material change in circumstances, I have no reason to take a different view in respect of the suitability.
32. Consequently, the development would provide suitable arrangements for cycle and refuse storage, in accordance with Policies D6 and T5 of the London Plan 2021

¹ Haringey's Local Plan Strategic Policies 2013 – 2026 (formerly the Core Strategy) March 2013 Consolidated with alterations since 2017.

and Policies DM17 and DM35 of the DPD. Together these seek to ensure development provides cycle parking that is fit for purpose, secure, not visually intrusive, and well-located, and adequate and convenient refuse storage, and collection.

Whether the change of use facilitates a car free development

33. The appeal site is in an area with a PTAL rating of 2 which denotes poor connectivity and accordingly does not accord with Policy DM32 of the DPD. Further, a HMO for up to six unrelated people is more likely to generate greater demand for car parking than a three-bedroom, single family dwelling.
34. The explanatory text to policies DM31 and DM32 explains that many of the borough's roads suffer from high levels of traffic congestion and with the demand for more housing and increases in employment, the impact of such growth on the highway and public transport network needs to be minimised.
35. To address this issue, unilateral undertakings have been submitted for both appeals. These would remove the right of future occupiers to apply for car parking permits and ensure that the appellants would pay to the Council a contribution of £4,000 towards the cost of amending the traffic management order.
36. The Council did not make any comments about these undertakings. However, these would overcome the Council's concerns about the additional pressure for on-street parking and the development would accord with the aims of policies DM31 and DM32 of the DPD and Policy T6 of the London Plan 2021 to reduce traffic congestion and encourage the use of public transport, cycling and walking.

Other matters

37. The Council referred to policies DM1 and DM12 of the DPD which in broad terms relate to design, including housing design and quality, and are not relevant to the main issues. Similarly, nor do I consider the strategic aims of policies SP2 and SP7 of the Local Plan and policies T1, T4 and T5 of The London Plan 2021, relevant to the detailed considerations in these appeals.

Conclusion on Appeal A on ground (a) and Appeal B

38. My finding no harm in respect of the living conditions of neighbouring residents, cycle parking, refuse storage and parking pressure, cannot outweigh the harm in respect of the loss of a smaller family house. Consequently, the development does not accord with Policy DM17 of the DPD and is contrary to the development plan when taken as a whole. In this case, there are no material considerations of sufficient weight to indicate that the appeals should be determined other than in accordance with the development plan.
39. Appeal A on ground (a) and Appeal B therefore fail and planning permission will not be granted.

Appeal A on ground (g)

40. An appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant suggested a period of nine months.
41. Whilst I am mindful that the property is occupied, I have no details about the occupants' circumstances, nor substantive details of the terms of the tenancies

held by any current occupants, particularly in relation to matters such as the notice periods required by either side.

42. I cannot therefore be certain, that a period longer than six months is necessary to secure compliance with the notice, which only requires that the use cease, or that the period is not proportionate to the breach of planning control that has occurred.
43. Additionally, the Council referred to their powers under section 173A(1)(b) to extend any period for compliance, if necessary, a matter which is entirely at their discretion, without prejudicing their right to take further action.
44. The period for compliance with the notice starts to run from the date when the notice comes into effect. In this case the notice as issued requires compliance by a calendar date which has been overtaken by the appeal process. That period would have been equivalent to around six months and I shall vary the notice to reflect that.
45. The appeal on ground (g) fails.

Conclusions

46. For the reasons given above, I conclude that Appeal A should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).
47. Appeal B is dismissed.

Felicity Thompson

INSPECTOR