



Appeal Decision

Site visit made on 8 April 2025

by **L Clark BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 May 2025

Appeal Ref: APP/G5750/W/24/3351575

28 Bendish Road, East Ham, Newham, London E6 1JH

- 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 Zafar Iqbal Bhatti against the decision of the Council of the London Borough of Newham.
- The application Ref is 23/02480/COU.
- The development proposed is change of use to a large House in Multiple Occupation (HMO) (sui generis).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2024, with further minor updates in February 2025. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comment.
3. The description on the appellant's planning application and appeal forms refers to a change of use from C3 to C4. The Town and Country Planning (Use Classes) Order 1987 (as amended) (the UCO) refers to a C4, house of multiple occupation (HMO) as being a dwellinghouse for use by not more than six residents. However, the proposed plan (ref HMO1-02), submitted in support of the application and as part of this appeal, clearly shows seven bedrooms located over three floors (3no bedrooms on the ground floor, 3no bedrooms on the first floor and 1no bedroom on the second floor). This would constitute a large HMO (sui generis) as per the UCO and not a C4. I have therefore amended the description of development in the banner heading above to that used on the Council's Decision Notice (DN), as this more accurately describes the proposed development. As the appeal notification letter, dated 12 December 2024, that was issued by the Council used the description on the DN, I am satisfied that no party will be prejudiced by this approach.
4. The Council contends that the proposed development could accommodate 9 persons based on the East London HMO Guidance (HMOG). Whilst the HMOG states that licensable HMOs should meet the prescribed national minimum standards, I have not been provided with the dimensions of the bedrooms, and as such, I am unable to assess potential maximum occupancy. I have therefore determined the appeal on the number of bedrooms shown on the proposed plans.

Main Issues

5. The main issues are:

- the effect of the proposed development on the supply of family-sized housing in the Borough;
- whether future occupiers would be likely to experience acceptable living conditions in terms of a) communal facilities and b) privacy, with particular regard to the ground floor bedrooms;
- whether the proposal would provide acceptable living conditions for nearby residents, with particular regard to noise and disturbance; and,
- whether the proposed development would make adequate provision for sustainable travel.

Reasons

Borough's supply of family housing

6. In managing the delivery of a mix of housing, Policy H3 of the Newham Local Plan 2018 – A 15 year plan looking ahead to 2033 (Local Plan) requires, amongst other matters, small HMOs to be purpose-built or converted from premises other than family-sized dwellings, subject to Policies H1, H3 and H4. Policy H4 of the Local Plan seeks to protect and re-shape the existing housing stock, specifically protecting 3 and 4+ bed family housing. In adopting this approach, the Council recognises that the greatest housing need within the Borough is for family-sized dwellings. These policies accord with the Framework, which indicates that planning policies should reflect the housing needs of different groups including, amongst other things, families with children.
7. Notwithstanding the above, Policy H4 also lists criteria where the conversion of 3+ bed housing may be appropriate. However, all the exemption criteria must be satisfied, and the proposed development must also be subject to the satisfaction of other policies.
8. Whilst No 28 is close to High Street N, I have not been advised whether it is located within a town or local centre, or whether it is located along a section of quality Movement Corridors or Linear Gateway within 400m of a town or local centre. Even if there were no external alterations proposed, and future occupants have access to an external private amenity space and the entrance is clearly defined, the proposed conversion would not meet the remaining criteria of Policy H4. This is because it is not located above an existing occupied commercial unit.
9. The appellant states that the property exceeds the size of a typical 3 bed family home. I accept that the number of bedrooms in No 28 is on the higher echelon for a dwelling, however, the Council is clear in Policy H4, Criterion 1. b of its Local Plan, that it seeks to protect 4+ bed family housing.
10. It has been put before me that, given the size of No 28, it is unlikely that a single family could afford the rental charge. Whilst I acknowledge that HMOs can provide affordable accommodation for tenants whose alternative housing choices may be limited, I have no substantive evidence before me to demonstrate that it is too large

or unaffordable for a single family, or that there is a lack of demand for larger family accommodation within the Borough.

11. While the proposed development would retain No 28 for residential purposes, planning permission has been sought for its conversion from a family dwelling to a large HMO. This removes it from being classed as a family dwelling for planning purposes.
12. For the above reasons, I conclude that the proposal would result in the loss of a family-sized house. It would therefore imbalance the supply of larger family houses and have a harmful effect on the Borough's housing supply. The proposal would be contrary to Policies GG4, H8 and H10 of the London Plan 2021 and Policies S1, SP1, SP2, SP3, H1, H3 and H4 of the Local Plan, which collectively seek to prevent the loss of existing larger housing suitable for family occupation. There would also be conflict with the requirements of the Framework, which seeks to ensure that the size, type and tenure of housing needed for different groups in the community is assessed and reflected in planning policies.

Living Conditions - Future Occupiers

a) communal facilities

13. London Plan Policy D6 sets out that housing developments should be of high quality and provide adequately sized rooms with functional layouts which are fit for purpose. The HMOG sets out guidance for, amongst other matters, communal areas including kitchen facilities within HMOs. Whilst the HMOG recognises that the standards should be applied flexibly, it is material insofar as to ensure occupants have adequate living accommodation.
14. The HMOG states that kitchens must be of an adequate size and shape to enable safe use of food preparation by the number of occupiers and that kitchen facilities should be no more than one floor away from the letting. It further states that where this is not practical, a dining area of a size suitable for the number of occupiers should be provided on the same floor as, and close to, the kitchen.
15. The appellant contends that the proposed development would have 4 bathrooms, a spacious kitchen and additional communal areas such as a reception and dining room. However, bathrooms by their nature are not intended to be used communally. Furthermore, whilst there is no dispute that the size of the proposed kitchen would meet standards in the HMOG, the appellant's proposed plan shows no reception or dining room. The dispute, therefore, is whether the proposed kitchen would provide sufficient communal areas for future occupiers.
16. Social interaction is important for mental health and well-being. Despite the kitchen being an acceptable size for food preparation, it is reasonable to expect that occupants of the HMO also have access to a good standard of communal accommodation in which to dine and mix with fellow residents. Whilst I saw that the kitchen contained three stools, the only area where future occupants could sit with their knees under the bench appeared to be a small area close to the doorway. This doorway provided the only access/egress to the external amenity area and the bedroom within the outrigger. Given the layout of the kitchen, the lack of available and accessible seating would likely result in future occupants unable to dine and relax together comfortably.

17. Given the deficiencies of the communal areas, I conclude that the HMO fails to provide an acceptable living environment for its occupants.

b) privacy

18. The proposed plan shows that all bedrooms on the ground floor would directly overlook communal external areas. The Council contends that this would result in an inappropriate quality of accommodation to the detriment of future occupants' privacy. The window to Bedroom 1 incorporates a bay with a central picture window flanked by two smaller angled side windows. One of these side windows is enclosed by the existing porch area. Whilst the remaining two overlook the paved front area, all occupants would have direct views into this room while either within the external area to the front or when using the porch.
19. The window to Bedroom 2 is approximately floor to ceiling. The lower section currently contains obscure glazing with the top section clear. This provides a view over the enclosed side return to the outrigger. The location of this window, together with the position of the access/egress to the rear external amenity area and bedroom within the outrigger, would allow occupants to have unrestricted access to views directly into this room.
20. Whilst the bedroom within the outrigger has its own entrance, its window directly overlooks the rear external amenity space. At the time of my visit, the area immediately in front of this window was unrestricted, and I had clear views into this room. From the evidence before me, this would remain unchanged for future occupants.
21. Based on the submitted plans and observations on site, there would be regular intervisibility between occupants of the HMO and all ground-floor bedrooms, with occupants able to walk past other occupants' windows. This would cause harm to the living conditions of future occupants with regard to privacy.
22. For the above reasons, I conclude that the proposed development would have a harmful effect on the living conditions of future occupants with regard to communal living space and privacy. I therefore find conflict with Policies D3, D4 and D6 of the London Plan and Policies S1, SP1, SP2, SP3, H1, and H4 of the Local Plan. These collectively seek to ensure comfortable and functional layouts which are fit for purpose and deliver appropriate privacy and amenity. There would also be conflict with the requirements of the Framework insofar as it seeks to ensure development creates places with a high standard of amenity for future users.

Living conditions – Nearby residents

23. No 28 is a two-storey terraced dwelling currently used as a 5 bedroom property. As a terraced property, any noise and disturbance generated within the house is likely to have a more significant effect on the occupants of the adjoining properties. Whilst No 28 is located within a predominantly residential street, it is close to the commercial activity on High Street N, and noise from traffic was audible within both the front and rear amenity areas. As a 5 bedroomed house, it would likely be occupied by 6 or more people. A family of this size would generate comings and goings on a daily basis, although this would probably vary, depending on the ages of any adults and children living there.

24. The DN contends that the proposed change of use from a single-family dwelling to an HMO would adversely affect the environment and general amenities for neighbouring residents. A change of use could cause additional noise and disturbance to neighbouring residents, especially as HMO residents are often associated with leading independent lives from one another. However, the Council has not provided me with any evidence to demonstrate that its occupation by seven persons would result in any greater impact on the living conditions of neighbouring occupiers than if the property were occupied as a single-family dwelling with 6 or more occupants.
25. The Council have drawn my attention to two appeals¹, however, I do not have the full details of the evidence or arguments that were put to the Inspector(s). Therefore, based on the evidence before me and my observations of the area, I must respectfully differ from their conclusions as to the impact.
26. The HMOG clarifies that, based on the number of occupants and layout of accommodation, the HMO would require a mandatory HMO licence. As such, to my mind, an effective tenant management plan and other conditions could satisfactorily mitigate any potential unacceptable impacts associated with noise and disturbance. Taking these factors together, I am satisfied that the proposed HMO would not cause an unacceptable rise in noise and disturbance in this location.
27. Given the above, I conclude that the proposed use would not harm the living conditions of nearby occupants with regard to noise and disturbance. There would be no conflict with Policies GG1, GG3, GG4, D3 and D14 of the London Plan and Policies SP1, SP2, SP3, SP8, H1, H3 of the Local Plan. These collectively seek to ensure that all development achieves good neighbourliness from the outset by avoiding the negative and maximising the positive social, environmental and design impacts for neighbours off the site. There would also be no conflict with the Framework which requires, amongst other things, that development provide a high standard of amenity for existing users.
28. The DN refers to Policy D8 of the London Plan, however, this Policy relates to the public realm. As the main dispute relates to the living conditions of existing nearby occupants, this policy is not considered to be applicable in this instance.

Sustainable transport

29. Local Plan Policy SP8, Criterion 2. (a x) seeks all development to achieve a high standard of access, egress and circulation for all including, amongst other matters, the provision of bicycle storage facilities. This is supported by its strategic policy INF2 of the Local Plan, which relates to sustainable transport, and seeks, amongst other matters, to maximise the efficiency and accessibility of the borough's transport network by cycle. Policy T5 of the London Plan relates to cycling and sets out minimum standards for developments.
30. Despite a lack of bicycle provision shown on the submitted plans, the Council acknowledges that the front and rear areas of the property could accommodate cycle parking, which could be controlled by condition. This view is supported by the appellant who asserts that the rear garden would be large enough to provide secure, weatherproof cycle storage for future occupants.

¹ APP/G5750/W/23/3316762, APP/G5750/C/21/3269000

31. From the evidence before me and observations on site, I am satisfied that the rear external area could accommodate the two long-stay cycle parking spaces specified by the Council. Subject to the imposition of such a condition, I am satisfied that the proposed development could provide cycle parking, which promotes sustainable modes of transport for the occupants.
32. For the above reasons, the proposed development would be capable of providing adequate cycle parking. Accordingly, there would be no conflict with Policies GG3, D3, D4, T5, T6, and T6.1 of The London Plan and Policies S1, SP2, SP8, and INF2 of the Local Plan, which collectively seek to ensure that developments provide adequate bicycle storage facilities. The development would also comply with the Framework which seeks to ensure developments, amongst other matters, enable and support healthy lifestyles through the provision of secure cycle parking.
33. The DN notice refers to Policy D14 of the London Plan, however, this Policy relates to noise. As the main dispute relates to sustainable transport, this policy is not considered to be applicable in this instance.

Other Matters

34. I note that the Council raises concerns with regard to the lack of personal washing and toilet facilities. Given that I am dismissing the appeal for other reasons, I have not needed to consider this matter further.

Planning Balance and Conclusion

35. HMO provision forms an important part of the housing supply in London. However, even if the proposed development would not result in harm to the living conditions of neighbouring occupiers with regard to noise and disturbance, and could provide sufficient cycle parking, there would be harm to the living conditions of future intended occupiers with regard to communal facilities and privacy, and the Borough's housing stock. These matters are the overriding consideration in this case.
36. On balance, and for the reasons given above, I find that the proposal conflicts with the development plan as a whole and there are no material considerations that indicate that the development should be determined other than in accordance with it. For the reasons given above, the appeal is dismissed.

L Clark

INSPECTOR