
Appeal Decision

Site visit made on 21 May 2025

by **A Hunter LLB (Hons) PG Dip MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9th June 2025

Appeal Ref: APP/Q5300/W/25/3360250

52 Sweet Briar Grove, Enfield, Edmonton N9 9LT

- 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 Gazi Havuc against the decision of the Council of the London Borough of Enfield.
 - The application Ref is 24/02267/FUL.
 - The development proposed is described as “the planning application of retrospective application from C3 to C4 HMO and the use outbuilding as a bedroom”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was made on a retrospective basis with the use said to have both started and been completed in June 2024. I saw on my site inspection that the appeal property was in use as a House in Multiple Occupancy (HMO), although one of the rooms on the ground floor was being used as a living room and not as an individual HMO room, which was different to the proposed plans. I have therefore determined the appeal based on the proposed plans.
3. The proposed floor plans show 6 no. HMO rooms (including the detached outbuilding) at the appeal property, and the appeal has been considered on this basis.
4. The Council has said in its submitted documentation that the built single storey extension, dormer extension, and detached outbuilding, which have all been constructed and are directly related to the proposed change of use, do not have planning permission. Although these aspects were not a reason for refusal, they directly relate to whether the proposed change of use of the appeal property can be accommodated, and it is necessary for them to be raised to a main issue on this appeal. The comments of both main parties have been sought on this issue, and they have been taken into account in my decision, as such there would be no unfairness to either party by this course of action.

Main Issues

5. Accordingly, the main issues are:
 - Whether the appeal property can accommodate the proposed change of use from a dwelling to an HMO as proposed; and,

- Whether future occupiers would have satisfactory living conditions, with particular regard to the kitchen and dining space.

Reasons

Whether the proposed change of use can be accommodated within the appeal property

6. The appeal site is a semi-detached property, it has been extended to the rear at both single storey and first floor level, and within its rear roof space with a dormer extension. It also has a detached outbuilding in its rear garden. The proposed floor plans show that the change of use is dependent on all these aspects for the 6 no. HMO rooms and the internal communal space.
7. In terms of the single storey extension the Council stated that planning permission¹ for a first-floor extension to the appeal property included the single storey extension, and although its fenestration differed from an earlier prior approval² application, they are content this aspect has planning permission, and I see no reason to disagree.
8. Regarding the proposed dormer extension, the Council has said that there is no planning permission for it, although it said there is a building control record³ dated 8 April 2019 for a loft conversion, but the case is still said to be open. The appellant contends that the dormer extension was permitted development in accordance with the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO) when it was undertaken by a previous owner. The appellant has not provided a completion certificate for the dormer extension or provided any evidence of when it was started or completed, nor has a certificate of lawful development been provided. It is also unclear if the building control record related to this dormer extension.
9. The only evidence submitted by the appellant is a google earth image from 7 May 2024 showing the dormer in-situ. This does not provide sufficient evidence of when works were started and completed or the length of time it has been constructed, or that it is permitted development. Moreover, based on that information I am also unable to conclude that it would be immune from any enforcement action, notwithstanding its apparent lack of express planning permission or confirmation that it is lawful development. Although it's not within my remit on this appeal to make a determination as to whether development is lawful, based on the evidence before me, I am unable to be certain that the dormer extension would be indeed lawful, and that it can be relied upon for the proposed change of use of the property.
10. The rear outbuilding was said to have had express planning permission⁴, but the approved plans showed the building having a rectangular shape. The proposed floor plans show it with a different layout, floor plan, and elevations, with it partly being deeper and having a diagonal rear side. The built situation is different to what planning permission was granted, which would also mean at the present time it does not have planning permission. Nor have I been shown evidence that it would be permitted development in accordance with the GPDO, or that it would be immune from enforcement action. Against this background I also cannot be certain

¹ Ref. 18/03914/HOU

² Ref. 15/05500/PRH

³ Ref. 19/00278/DEXFPD

⁴ Ref. 18/01296/HOU

that this aspect of the existing built form is lawful and that it can be relied on to accommodate the proposed change of use.

11. I therefore conclude that on the balance of probabilities and based on the evidence before me, I am unable to conclude that the dormer extension and detached outbuilding are lawful and can be relied upon to accommodate the proposed change of use of the appeal property from a dwelling to an HMO, as shown on the proposed plans. As a result of being unable to rely on the proposed plans for the change of use to an HMO, there would be conflict with Criteria A of Policy D6 of The London Plan, The Spatial Development Strategy for Greater London, dated March 2021 (LP), Policy 4 of The Enfield Plan, Core Strategy 2010-2025, adopted November 2010 (CS) and Policies DMD5 and DMD8 of Enfield's Development Management Document, adopted November 2014 (DMD) insofar as they require development such as HMOs to provide a high quality form of accommodation and that well-designed, flexible and functional layouts with adequately sized rooms. There would also be conflict with paragraph 135 of the National Planning Policy Framework (the Framework) in terms of it requiring high standard of amenity for existing and future users.

Living conditions

12. Notwithstanding my findings above, I am still required to assess whether the proposed change of use of the appeal property would provide satisfactory living conditions in terms of the proposed communal kitchen/dining area, in the event the proposal had been found to be acceptable in all other respects.
13. The Council say its HMO Licensing Standards require a kitchen/dining/living area to have a minimum size of 18 square metres for up to 5 occupiers, with an additional 1 m² for each additional occupier. I have not been provided with a copy of the HMO Licensing Standards, and I have not been made aware that they, or any other specific size requirements, form part of the development plan, consequently, at most they can only be a material consideration when assessing the proposed communal space. It is also noted that both the space requirements set out within Technical Standards, Nationally Described Space Standards, dated March 2015 (NDSS) and those set out within Criteria F of LP Policy D6 (as stated within paragraph 3.6.2) relate to dwellings and not HMOs, so they are not directly applicable to the appeal scheme.
14. CS Policy 4 requires new housing to be high quality, and DMD Policies DMD5 and DMD8 also say HMOs must provide a high-quality form of accommodation and that well-designed, flexible and functional layouts with adequately sized rooms that exceed those set out within the London Plan and London Housing Design Guide. Although, I have not been made aware of any current London Housing Design Guide in this respect. Furthermore, criteria A of LP Policy D6 says housing development should be of high-quality design and provide adequately-sized rooms with comfortable and functional layouts which are fit for purpose and meet the needs of Londoners without differentiating between tenures. Therefore, a qualitative assessment is required regarding the proposed communal kitchen/dining area.
15. I saw on my site inspection that the rooms within the main building had a kitchenette within them providing the opportunity for future occupiers to prepare food. I also saw that it was possible to access the rear communal garden and the

detached outbuilding at the rear of the property from a ground floor side door within the hallway of the main building. Therefore, the external door on the communal kitchen/dining area would not be the only means of access to the HMO room within the detached outbuilding.

16. In view of the kitchenettes in the individual HMO rooms, there may be less need for some occupiers to use the communal kitchen /dining space. Nevertheless, I also saw that the kitchen/dining space had cooking facilities on the outer side wall, and there was adequate circulatory space, together with a dining table, so that all occupants could comfortably cook and eat within the space, and for there to be social interaction between the occupiers. The glazed door opening into the shared rear garden would also allow natural light and ventilation into the communal kitchen/dining space and allow a close relationship with the shared outdoor space.
17. The layout of the kitchen/dining room is functional, has some flexibility to an extent, and would allow access to the rear garden, if required. As a result, the space would provide its future occupiers with satisfactory living conditions that would not be cramped.
18. It is acknowledged that occupiers of the detached HMO room would need to walk the short distance across the rear garden to the kitchen/dining area. However, it would all be on the same level, and it would be closer than the distance to the HMO room on the second floor. Whilst there may be times when there is wet weather and it is dark, given the short distance and providing there is adequate lighting (which could be the subject of a suitably worded condition if the appeal were to be allowed) it would be unlikely to create living conditions that would be harmful for future occupiers of the proposed HMO room within the detached outbuilding.
19. The Council referred to an appeal decision⁵ in support of its decision. I note that the circumstances of that appeal related to a kitchen/dining space measuring 10 square metres said to relate to 6-10 occupiers (the exact number was not specified). Whilst it states that the individual HMO rooms had kitchenettes like the appeal proposal, the space in that case was significantly smaller than the kitchen/dining space proposed on this appeal, and it was found to have a cramped layout, limited seating and limited opportunity for social interaction. Given the larger size of the kitchen/dining space in this case, and my findings above, I did not find it to be directly comparable to this appeal scheme.
20. I therefore conclude that in the event the appeal property was found to be lawfully capable of accommodating the proposed change of use to a HMO as set out on the proposed plans, the proposed communal kitchen/dining space would provide future occupiers with satisfactory living conditions. In doing so, I find the proposed development would accord with the relevant requirements of LP Policy D6 Criteria A and CS Policy 4 and DMD Policies DMD5 and DMD8, as set out above. In addition, it would also comply with paragraph 135 of the Framework insofar as it requires a high standard of amenity for existing and future users.

Other Matters

21. I note the appellant's comments about the contribution that affordable HMOs make to housing choice, along with the parts of the Framework and LP Policies they have

⁵ Ref. APP/Q5300/W/23/3332820

referred to, including but not limited to: making an efficient use of land; optimising small sites; and boosting housing delivery. It is also noted that the appeal property is said to have been issued an HMO licence, and that the appellant says they have a good record of managing HMOs. However, these collective points do not outweigh my findings above.

Conclusion

22. I therefore conclude that the proposed kitchen/dining space could provide satisfactory living conditions for future occupiers, but in view of the significant doubt as to whether the proposed change of use could be accommodated at the appeal property in its entirety, the proposal would conflict with the development plan. There are no other considerations, including those raised by the appellant and the Framework, which outweigh that conflict. For the reasons outlined above, the appeal should be dismissed.

A Hunter

INSPECTOR