



Appeal Decisions

Site visit made on 2 May 2025

by **Richard S Jones BA (Hons), BTP, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 July 2025

Appeal A Ref: APP/T5150/C/23/3329476

27 Chaplin Road, Wembley, HA0 4TY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Mahesh Patel against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice was issued on 11 August 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the premises to a House in Multiple Occupation (HMO)
 - The requirements of the notice are to:
 1. Cease the use of the premises as a House in Multiple Occupation (HMO).
 2. Remove all internal partitions, items, materials and debris, associated with the unauthorised change of use, including the removal of all kitchens, en-suite bathrooms/shower rooms and toilets, except those shown in Plan A attached to this notice.
 3. Restore the internal configuration to the original layout before the unauthorised change of use took place, as shown in Plan A attached to this notice. For the avoidance of doubt, this should include a kitchen, dining room, lounge, utility room, WC, and sitting room on the ground floor, bedrooms and a bathroom on the first floor.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) 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.
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Appeal B Ref: APP/T5150/W/23/3329187

27 Chaplin Road, Wembley, HA0 4TY

- 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 Mahesh Patel against the decision of the Council of the London Borough of Brent.
 - The application Ref is 23/1566.
 - The development proposed is retrospective application for existing use as large HMO and proposed demolition of existing rear stores and erection of single storey rear extension and single storey side infill extension, rear dormer roof extension and 1x front rooflight and cycle storage.
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Decisions

Appeal A

1. It is directed that the enforcement notice is corrected by deleting requirement (Step) 2 and its substitution with "Remove all items associated with the unauthorised change of use."
2. Subject to the correction, 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 insofar as it relates to the use of the property as a large HMO.
4. The appeal is allowed insofar as it relates to the demolition of existing rear stores and erection of single storey rear extension and single storey side infill extension, rear dormer roof extension and one front rooflight at 27 Chaplin Road, Wembley, HA0 4TY, in accordance with the terms of the application, Ref 23/1566, and the plans submitted with it, so far as relevant to that part of the development hereby permitted and subject to the following conditions:
 - (1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - (2) The development hereby permitted shall be carried out in accordance with drawings Nos: Page 1 of 9 Rev 1 (Existing Floor Plans); Page 2 of 9 Rev 2 (Proposed Floor Plans); Page 3 of 9 Rev 1 (Existing Elevations); and Page 4 of 9 Rev 2 (Proposed Elevations).
 - (3) The external materials of the single storey rear extension, single storey side infill extension and rear dormer roof extension hereby permitted shall match those used in the existing building.
 - (4) No development shall take place until a detailed surface water drainage scheme for the site (including timetable for implementation) has been submitted to and approved in writing by the local planning authority.

Preliminary Matters and Background

Appeals A and B

5. The appeals relate to a two storey, semi-detached house with two storey rear outrigger, single storey infill extension and single storey rear outbuildings.
6. The breach of planning control as stated in the enforcement notice (subject to Appeal A) is the material change of use of the premises to a HMO. The refused planning application (subject to Appeal B) is for the existing use as large HMO and the proposed demolition of existing rear stores and erection of single storey rear extension and single storey side infill extension, rear dormer roof extension and one front rooflight and cycle storage.

Appeal A

7. The Council's concerns relate to the configuration of the property subject to the enforcement notice, rather than that subject to the refused planning application (Appeal B).

Appeal B

8. The Council finds the single storey rear extension, single storey side infill extension, rear dormer extension and front roof light to be acceptable. The Council also finds the proposed configuration of a five bedroom HMO for 9 persons to provide acceptable living conditions for its occupants. I find no reason to take a contrary position on any of those aspects of the proposal.

Appeal A

Main Issues

9. The main issues are:

- whether the development provides acceptable living conditions for occupants, with particular regard to the provision of internal and external living space and the provision of refuse and cycle storage;
- the effect of the development on the living conditions of occupants in the area with particular regard to property management, car parking, noise and general disturbance; and
- whether the development results in an unacceptable loss of a larger family sized residential unit.

Reasons

Living conditions for occupants

10. Brent Local Plan 2019-2041 (BLP) Policy BH7 states that proposals for residential accommodation with shared facilities will be supported where all of the specified criteria are met. Criteria b) is that it is of an acceptable quality meeting appropriate standards for the needs of its occupants, including external amenity space and appropriate communal facilities. In order to meet that criterion, Brent's Houses in Multiple Occupation Supplementary Planning Document (HMO SPD) sets out a range of sizes and standards for individual households and shared communal facilities.
11. Given the importance of the rooms as private spaces to HMO occupants, the SPD states that London Plan Policy D6 net internal floorspace standards are considered the minimum acceptable to gain planning permission. Those are 7.5m² for a single person room and 11.5m² for a two person room, not including space for en-suite facilities.
12. The appellant states that the house is currently in use as a HMO with eight residents, made up from four couples utilising the double rooms on the ground floor (x1) and the first floor (x3). There are communal bathrooms on both the ground floor and first floor, and a communal kitchen on the ground floor. The single bedroom on the first floor is used for storage by the residents.
13. It is likely that all three first floor bedrooms would meet the relevant space standards, as would the ground floor front room, if it were not being used as an office. It is also likely that the middle ground floor bedroom would meet the space standards, particularly if the adjacent storage room is included, as it was at the time of my site visit.
14. However, the SPD also states that bedrooms must have at least one window providing adequate light and there is no such provision within the ground floor middle bedroom. It is therefore unlikely that sufficient light penetration is achieved into that room from the glazed parts of the adjacent storage space, if that area were available to occupants. That would make for an unacceptably oppressive and gloomy living environment, having to rely on artificial light at all times of the day. If the storage space were not included, there would be no natural light within that

bedroom, making its provision even worse. Moreover, without a window, occupants would have no outlook, thereby adding visual confinement to the overall degree of harm.

15. Other than the kitchen, there is no shared indoor amenity space. Although taken in isolation the kitchen is of a reasonable size, it is very unlikely that it would meet the SPD expectation of a minimum 5m² of internal communal amenity space per resident, so as to provide space for them to congregate and spend time together, to improve social integration and reduce the need to congregate outside, which in turn may affect the living conditions of neighbours.
16. Moreover, contrary to the SPD, the small kitchen table, with only three chairs, is wholly inadequate for the number of residents. The downstairs shower room and toilet also open directly into the kitchen. That is clearly undesirable and contrary to the SPD.
17. I also saw that some of the rooms require refurbishment but that is acknowledged by the appellant, who plans to carry out such work once the planning position is resolved. That is not unreasonable.
18. The appellant suggests that additional living space could be secured by way of a condition. However, it is not shown how that may be satisfactorily achieved in a manner which would meet the needs of occupants whilst being acceptable to the appellant.
19. In terms of outdoor amenity space, the rear communal garden, which can be accessed via the shared kitchen and side path, is likely to more than meet the 20m² size requirement of LP Policy BH13.
20. The Council raises concern that the outdoor amenity space is not well maintained and usable. Whilst at the time of my site visit, the garden was clear and tidy, the Council's photographs from 15 February 2023 show the space being largely used for general storage. That is contrary to the SPD which states that outdoor amenity space should be subject to a management regime that ensures it is well maintained and usable all year around.
21. A management plan has been submitted in support of the appeal, adherence to which could be secured by way of condition. Although appearing to be critical of the suggestion that it addresses all relevant issues, the Council does not make comment on its content. For the purposes of this main issue, the plan states that a company would be employed to maintain the garden and a property manager would inspect communal areas on a weekly basis.
22. Subject to setting appropriate triggers for implementation, I am satisfied that the property is capable of providing acceptable outdoor living space for occupants.
23. Although the appellant states that the outbuilding can be used for cycle parking, at the time of my site visit, it was used solely for storage. Nevertheless, I'm satisfied that a condition could be imposed to ensure that it would be available to occupants for cycle parking.
24. I appreciate that the property has a HMO licence for a maximum of 10 persons. However, the HMO SPD highlights that compared to planning requirements for new homes, some licencing standards are considered by the Council to be

insufficient, resulting in small bedroom sizes and limited internal and external amenity space.

25. In overall terms, I find that the existing configuration, coupled with the level of occupancy, falls short of providing acceptable living conditions for existing occupants, contrary to BLP Policies BH7 and DMP1, the HMO SPD, and paragraph 135 of the National Planning Policy Framework (the Framework). Those state, amongst other things and in addition to the above, that development will be acceptable provided it is of a use, concentration, layout and design that provides high levels of internal and external amenity.
26. The Council's corresponding reason for issuing the enforcement notice also cites conflict with BLP Policy BH10 (resisting housing loss), however, I find that policy to have limited relevance to this main issue.

Living conditions of occupants in the area

27. Compared to the occupants of a single household, who are more likely to carry out activities on a communal basis, occupation by four couples is likely to result in a significant intensification in the use of the property, with four or more differing patterns of usage and behaviour where occupants come and go separately from one another for work, shopping and other day-to-day activities. A greater number of unconnected couples living within one property will in turn likely generate a greater number of separate visitors and deliveries to the property, along with the potential noise and general disturbance arising.
28. However, the appellant refers to an employee being on site every day during normal working hours, actively managing the building. As corroborated by the Council's photographs and my own site visit, the employee uses the front ground floor room as an office, with screens displaying CCTV coverage of the exterior of the building. The management plan also sets out reasonable measures to deal with noise and disturbance. I am therefore satisfied that unacceptable harm to the living conditions of neighbouring occupants could be avoided, particularly on the basis of the present use by four couples, rather than eight individuals.
29. Poorly maintained homes and poor refuse and garden management can arise regardless of the tenure of a property. Nevertheless, those are recognised issues associated with HMOs, which by their very nature, provide a more transient form of accommodation and a higher turnover of occupants. Such occupants are therefore less likely to be actively engaged in the community and to care in the same way about the appearance of the property and its surroundings, compared to occupants of single family dwellings.
30. The management plan sets out broad measures for waste and recycling, insofar as tenants will be made aware of their responsibility for proper disposal and issued with details of the refuse store arrangements, as well as collection dates and how to present their waste. However, the plan doesn't address details of actual storage, or how responses to poor waste practices from tenants (other than pest infestations) will be actioned to ensure compliance, as required by the SPD.
31. The appellant's statement explains that refuse and recycling is stored in collection wheelie bins and lined up against the side wall to the front of the building. He argues that is an entirely conventional arrangement and common to most of the buildings along the street. However, it is not shown that the other properties in the

street are HMOs, which, as highlighted in the SPD, often result in the production of larger amounts of waste than a typical dwelling.

32. To ensure that is mitigated, the SPD states that all bins must be contained within an attractively designed shelter for storage and collection, that is easily accessible to residents and waste collection services, and of a design which should be in keeping with local character, blending seamlessly into the surrounding environment. Those expectations are not shown to have been met, or to be capable of being satisfactorily resolved by way of condition.
33. The appellant asserts that since there is a person on site managing the building during the day, waste is actively managed and does not, for example, spill over onto the street. However, it is not explained where any overspilling waste is kept, pending collection. Accordingly, it is not shown that there are suitable facilities and practices in place, to deal with larger amounts of waste arising from an increased number of occupants, so as to ensure that waste does not become a nuisance to neighbours, and a general blight to the street scene.
34. Although the appellant says there is no evidence that the current waste management arrangements are causing unacceptable harm, at the time of my site visit there was bags of waste and loose debris unattractively positioned adjacent to the front wall of the property, separate from the wheelie bins.
35. I saw that Chaplin Road forms part of a controlled parking zone where the amount of on-street parking is also restricted by the prevalence of dropped kerbs serving off-street forecourt parking. Within that context, a HMO with four couples is likely to generate greater parking demands than a single family dwelling and it is not shown that there is sufficient capacity for any additional vehicles to be parked on the highway.
36. Although there is a crossover in front of the property, I saw that the hardstanding is not sufficiently deep to accommodate a vehicle without it overhanging the footway. Even if a small car could be accommodated, accessing the space is likely to result in awkward and unsafe manoeuvring over the footway. In any case, in line with London Plan Policy T6, the SPD requires that HMOs are car-free and to that end there is no mechanism before me to ensure that residents would not be eligible to apply for a residents parking permit. Whilst I acknowledge its sustainable location, the use of the property as a HMO is therefore more likely to result in an increase in parking stress and associated annoyance and inconvenience for existing residents in the area.
37. I therefore find that the use of the property as a HMO is likely to be harmful to the living conditions of neighbouring residents, as refuse arrangements have not been satisfactorily resolved to ensure harm to the appearance of the property is avoided, and through parking stress, contrary to BLP Policies DMP1, BH7 and BT2, London Plan Policy T6 and the HMO SPD.

Family sized housing

38. The HMO SDP recognises that HMOs perform an important part in housing people within the Borough. Although stating that their need would ideally be limited by an alternative availability of plentiful amounts of affordable self-contained dwellings for smaller households, it is recognised that in the short to medium term that is unlikely to occur. Accordingly, the SPD states that HMO accommodation that

meets non-specialised needs, will not be expected to evidence a particular specific Brent need in association with any planning application.

39. However, it is further stated that HMO accommodation is likely to compete for the same properties with families who also need three bedroom dwellings or larger. The need for such family accommodation is highlighted as significant within the Borough, so the unmet need for family homes will be balanced against the quality of the HMO being provided. On that basis the SPD explains that where the Council considers that the quality is not sufficiently high, through non-compliance with the SPD, it is more likely to tilt the balance in favour of retaining the premises as a family dwelling.
40. In this case, for the reasons explained, I have not found that the property is of an acceptable quality, meeting the needs of its occupants. Given the nature of those deficiencies, I find that the quality is not sufficiently high to outweigh the loss of a family sized residential unit. A Brent specific need for the use of the property as a HMO is not therefore demonstrated and the development is contrary to BLP Policies DMP1 and BH7 and the HMO SPD.
41. As I have not found the HMO to be of a reasonable standard, it does not benefit from the general protection of London Plan Policy H9.
42. BLP Policy BH11 states that to maintain family size housing, conversion of a family sized home (3 bedrooms or more) to two or more other dwellings, will only be allowed where the specified criteria are met. Although the appeal property comprises a family sized home, its use as a HMO does not result in its conversion to two or more dwellings. BLP Policy BH11 therefore has limited relevance in this case.

The Appeal on Ground (f)

43. An appeal on ground (f) is that the requirements of the enforcement notice are excessive to remedy the breach of planning control or the injury to amenity caused by the breach.
44. In this case, the breach is the material change of use of the premises to a HMO whilst the requirements are to cease that use (requirement 1), remove all internal partitions, items, materials and debris, associated with the unauthorised change of use, including the removal of all kitchens, en-suite bathrooms/shower rooms and toilets, except those shown in the plan attached to the notice (requirement 2), and to restore the internal configuration to the original layout before the unauthorised change of use took place, as shown on the same plan (requirement 3). For the avoidance of doubt, it is stated that this should include a kitchen, dining room, lounge, utility room, WC, and sitting room on the ground floor, and bedrooms and a bathroom on the first floor.
45. The purpose of the notice is therefore to remedy the breach of planning control. Accordingly, the scope of the notice is limited by s173(4)(a) of the 1990 Act so the appellant cannot be required to undertake works that would go beyond remedying the breach, and the most that can be achieved is compliance with a planning permission or the restoration of the land to its previous condition.
46. The appellant asserts that the only change to the building is the use, and that the internal layout remains the same as it was before, reflecting that shown in the

enforcement notice plan. Accordingly, he argues that the first requirement (cease the use) is sufficient to remedy the breach and that the second and third reasons, as well as partially duplicating each other, are not necessary since there is nothing that needs to be removed or altered.

47. The Council disagrees but only points to an office use of the ground floor front room, rather than a sitting room, and the use of the ground floor middle room as a bedroom, rather than as a dining room. Nevertheless, the use of those rooms for an office (to manage the property) and a bedroom, clearly facilitate the material change of use of the property to a HMO. The notice is therefore able to require the internal configuration to be restored to the layout before the change of use took place (Step 3).
48. However, the Council does not point to any new internal partitions, or additional ensuite bathrooms/shower rooms or toilets, above those shown on the plan attached to the notice. The requirement (step 2) to remove fixtures which don't exist therefore serves no purpose and is excessive for the purposes of remedying the breach. Accordingly, the requirement should be corrected by deleting reference to such fixtures, so as to only require the removal of items associated with the material change of use.
49. The appeal on ground (f) succeeds to the extent explained.

Conclusion

50. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended

Appeal B

Main Issues

51. The main issues are whether the development:
 - would result in an unacceptable loss of a larger family sized residential unit;
 - provides a management plan for the HMO;
 - provides appropriate arrangements for cycle and refuse storage;
 - would achieve a satisfactory urban greening factor; and
 - whether measures have been provided to reduce the rate of surface water run-off.

Reasons

Family sized housing

52. As noted, BLP Policy BH7 states that proposals for non-self-contained or self-contained residential accommodation with shared facilities will be supported where five criteria are met. Section 5 of the HMO SPD is broken down to align with the criteria of BLP Policy BH7.

53. The site has a 'very good' Public Transport Accessibility Level of 5 and is close to the Wembley Town Centre, so has good access to a range of local facilities including shops. The site therefore meets criterion a). Moreover, it is common ground that the proposed configuration would provide acceptable living conditions for occupants, thereby meeting criterion b).
54. Although not submitted with the application, a management plan has been submitted in support of the appeal. In principle, that addresses the second reason for refusal, which is that the proposal has failed to provide such a plan. Whilst, as noted, the Council appears to be critical of the suggestion that it addresses all relevant issues, it does not make comment on its content.
55. The plan states that a dedicated property manager would be appointed to run the building and that his or her contact details would be provided to the owners of neighbouring properties for emergencies and complaints. It also sets out measures that would be taken to control noise and disturbance, anti-social behaviour and to ensure that internal and external parts of the property are cleaned. I am therefore satisfied that criterion c) is met in that the development includes management arrangements suitable to its proposed use and size, so as not to unacceptably impact on neighbouring amenity.
56. Turning to the issue of Brent need, the property would be configured to provide five policy compliant sized bedrooms, each with ensuite facilities. The extended form of the building would also allow for appropriately sized internal communal facilities, whilst the rear garden is sufficiently large to meet relevant standards for external living space.
57. I am therefore satisfied that the quality of the proposal is sufficiently high to tilt the balance in its favour, in accordance with the HMO SPD. Moreover, the nature of the works would not preclude the future use of the building for a large family home. I am therefore satisfied that criterion (d) is met.
58. The Council confirms that the use of the property would not result in an over-concentration of HMOs, thereby complying with criterion e).
59. The development would therefore accord with BLP Policy BH7 and would not result in an unacceptable loss of family sized residential unit.

Cycle and refuse storage facilities

60. The HMO SPD states that to encourage cycling by occupants and their visitors, HMOs will need to meet the cycle parking standards as outlined in London Plan Policy T5, which in this case equates to 9 occupant spaces and 2 visitor spaces.
61. The plans show that 12 cycle parking spaces would be provided in an outbuilding at the rear of the site. However, no visitor spaces are shown to be provided and the Council asserts that the aisle widths and spacings are below London Cycle Design Standards requirements, so in practice it wouldn't be able to accommodate 12 cycles. No evidence is provided by the appellant which demonstrates otherwise, although it is likely that sufficient space could be provided for 9 spaces, which would meet the requirement for occupants at least.
62. Whilst occupant cycle parking provision may be more convenient at the front of the property, provision within the outbuilding would not be unduly onerous and would likely be more secure and likely have a lesser impact on the street scene.

63. Moreover, there is sufficient space at the front of the property to accommodate two visitor cycle spaces, subject to the preclusion of the use of the forecourt for car parking. I'm therefore satisfied that residual visitor cycle parking provision could be secured by way of condition, so as to accord with London Plan Policy T5, BLP Policy BT1 and the HMO SPD.
64. As explained above, the SPD states that all bins must be contained within an attractively designed shelter for storage and collection, that is easily accessible to residents and waste collection services, whilst being in keeping with the local character.
65. Clearly the proposed refuse store in the rear outbuilding would not be accessible to waste collection operatives. The appellant states that if the proposed arrangement is unsatisfactory, then he would accept a condition that alternative arrangements be submitted for the approval of the Council. However, it is not shown that a scheme is capable of being provided where it would be acceptable both in operative terms and in terms of the effect on the character and appearance of the area, so as to comply with the HMO SPD.

Urban greening

66. In line with BLP Policy BH4 and London Plan Policy G5, all minor residential developments (less than 10 dwellings) are required to deliver an urban greening factor of 0.4 on site.
67. The submitted plans show that 63% (30.44m²) of the rear garden would be laid to natural grass. The appellant calculates that would achieve an urban greening factor of 0.63, whereas the Council calculates it to be 0.05. Based on the London Plan methodology, the Council's calculations are likely to be broadly correct.
68. The appellant explains in his appeal submission that further details of urban greening will be provided but nothing further is before me. I note the positive suggestion that the front garden could be planted, but it is not demonstrated that would be sufficient to address the identified shortfall.
69. The development would not therefore achieve a satisfactory urban greening factor and thus is contrary to BLP Policy BH4 and London Plan Policy G5.

Surface water

70. BLP Policy BSUI4 states that proposals that fail to make adequate provision for the control and reduction of surface water run-off will be refused. Whilst the Council welcome the proposed addition of a rainwater pipe to be connected to a rainwater soakaway, it argues that further drainage improvements should be included in the front forecourt. Although that is not addressed by the appellant, I am satisfied that any residual surface water issues could reasonably be resolved by way of condition.

Other Matters

71. It is possible in planning appeals to make a 'split decision' and grant planning permission for some parts of the development in question and not others. In order to make a split decision, the relevant parts of the development must be severable.

72. In this case I have found that the use of the property as a HMO is unacceptable, as matters relating to urban greening and refuse have not been satisfactorily resolved. However, it is common ground that the proposed extensions are acceptable, and the appellant has requested that I issue a split decision and grant planning permission for them.
73. Whilst the extensions are intended to facilitate the use of the property as a HMO, the physical works could also facilitate use as an enlarged single dwellinghouse. Moreover, as all of the proposed extensions are acceptable, there are no severability issues arising.
74. I will therefore allow the appeal insofar as it relates to the demolition of the existing rear stores and the erection of a single storey rear extension and a single storey side infill extension, rear dormer roof extension and front rooflight, but dismiss the appeal insofar as it relates to the use as a large HMO. As the parties have had opportunity to make representation on the merits of the extensions, I am satisfied that no injustice would arise from me issuing a split decision.

Conditions

75. In addition to the standard condition which limits the lifespan of the planning permission I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. A condition relating to materials is necessary to ensure that the appearance of the extensions would be satisfactory. A condition is also necessary to deal with any residual surface water concerns.

Conclusion

76. For the reasons given above, the appeal should be allowed in part and dismissed in part.

Richard S Jones

INSPECTOR