



Appeal Decision

Site visit made on 7 May 2025

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 23 July 2025

Appeal Ref: APP/Q5300/C/23/3332956

137 St. Mary's Road, London N9 8NR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Sinan Aksu against an enforcement notice issued by the Council of the London Borough of Enfield.
 - The notice was issued on 11 October 2023.
 - The breach of planning control as alleged in the notice is 'Without planning permission, the unauthorised conversion of the single family dwelling into a House of Multiple Occupancy (HMO).'
 - The requirements of the notice are
 1. Cease the use of the Premises as an HMO
 2. Remove all locks form internal doors and any partitions that facilitate the conversion into an HMO.
 3. Remove all doorbells except for one
 4. Remove all resulting materials from the Premises.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 (the Act) (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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Decision

1. It is directed that the enforcement notice is corrected by:
 - i) Deleting the word "conversion" from the allegation and replacing it with "material change of use."
2. Subject to the correction, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the material change of use of the single family dwelling into a HMO at 137 St Marys Road, London N9 8NR as shown on the plan attached to the notice and subject to the following conditions;
 - 1) Unless within 2 months of the date of this decision, a scheme for the secure parking of bicycles is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority's approval, the use of the Premises shall cease until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the appeal property shall cease until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained/retained/remain in use

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 2) Unless within 2 months of the date of this decision a scheme for the storage of refuse including recycling (which refers to the London Borough of Enfield Waste and Recycling Planning Storage Guidance with regard to houses) is submitted in writing to the local planning authority approval and unless the approved scheme is implemented within 2 months of the local planning authority's approval, the use of the appeal property shall cease until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the Premises shall cease until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained/retained/remain in use

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 3) Occupation of the Premises is limited to no more than 5 occupiers.

Preliminary Matters

3. The appeal relates to a material change of use to an HMO. In order to regulate the number of conversions in the Borough, an Article 4 Direction was put in place in 2013. The Article 4 Direction means that express planning permission is required for a material change of use from a single dwelling house to an HMO.
4. The Council refused to grant retrospective planning permission for a change of use from single family dwelling house (Class C3) to an HMO for 5 occupants on 27 August 2023. This appeal relates to the enforcement notice issued in respect of that change of use to Class HMO (Class C4) on 11 October 2023. The reason for issuing the enforcement notice is the same as the planning refusal. The Council provided its delegated report during the later stages of the appeal and the appellant was given the opportunity to comment upon it.

The Notice

5. The allegation refers to the conversion of the single family dwelling into a House of Multiple Occupancy (HMO). However, the use of the word 'conversion' lacks clarity. The heading of the notice refers to a 'material change of use' and the allegation relates to a material change of use from a single family dwelling into an HMO. Correcting the allegation by replacing the word 'conversion' with 'material change of use' does not cause injustice to any party as it does not make the notice more onerous. I will amend the wording in the notice.

The appeal under ground (a) and the deemed planning application (DPA)

Main Issue

6. The main issue is the effect of the development upon the character and appearance of the area.

Planning policy

7. The development plan includes the London Plan (LP), Enfield's Core Strategy (CS) and Enfield's Development Management Document (DMD). Policy DMD5 (Residential Conversions) of the DMD states

Development involving the conversion of existing units into self-contained flats and houses of multiple occupation (HMO) will only be permitted if the following criteria are met:

All development must:

- a. Provide a high quality form of accommodation which meets internal floor space standards in the London Plan;*
- b. Not harm the residential character of the area or result in an excessive number or clustering of conversions. The number of conversions:*
 - must not exceed 20% of all properties along any road; and*
 - only 1 out of a consecutive row of 5 units may be converted.*
- c. Not lead to an unacceptable level of noise and disturbance for occupiers and adjoining properties;*
- d. Incorporate adequate parking and refuse storage arrangements that do not, by design or form, adversely affect the quality of the street scene.*

Reasons

8. The appeal property is located in a residential street of largely pre -1940s housing. It is a two storey semi-detached that has been extended to the side, rear and loft. The internal layout includes 5 bedrooms with 1 bedroom occupying the whole of the loft space. Each bedroom has an ensuite shower room and ample storage space. The communal facilities on the ground floor include 2 kitchen areas, a living room and a guest toilet. There is a rear garden with an outbuilding for further storage and gym equipment and a smaller front garden.
9. The Council will only permit the conversion of existing units into flats or HMOs when they accord with the development plan and in particular, the criteria listed within Policy DMD5 of the DMD and set out in paragraph 7. Policy DMD5 is intended to prevent harm to residential character and to prevent an excessive number of clustering of conversions or lead to an unacceptable level of noise and disturbance for neighbours.
10. The Council's sole reason for issuing the notice relates solely to the second limb of criterion 'b' of Policy DMD5 which states that only 1 out of a consecutive row of 5 units may be converted. In referring to conversions rather than HMOs, the policy is

not limited to HMO use and includes changes of use of single family dwellinghouses to self-contained flats. The Council maintains that allowing the appeal would cause an imbalance of housing types and there would be material harm to the residential character of the immediate catchment area.

11. With regard to percentages, figures provided by the appellant indicate that there are 192 properties on St Marys Road. Whilst the licensing and planning regimes are different, there are 6 HMO licenses for properties other than the appeal property and 9 properties have multiple addresses. There is no evidence before me to indicate that the percentage level exceeds 20% or to dispute the appellant's figure of 4.6%.
12. The Council has referred to conversions at No 133 and No 147 resulting in a breach of the 1 in 5 in a consecutive row part of the policy. From my site visit observations, there are four consecutive properties between the appeal property and No 147 namely Nos 139,141,143 and 145. The conversion of No 147 which the Council refers to as a mandatory HMO does not therefore, by itself, prevent the conversion of the appeal property.
13. No details are provided of the nature of the conversion of No 133 although the appellant refers to one property having been permitted as a result of a Certificate of Lawful Use(CLU). No 133 may be in use as self-contained flats as there is no indication that it has an HMO licence. There are some other conversions along the road including No 147 but those conversions do not create a perception of over concentrations, the predominance of family housing remains intact.
14. The grant of a CLU for No 133 does mean that the development is technically in conflict with the second limb of (b) of Policy DMD5 of the DMD. However, the development provides a high standard of spacious accommodation for 5 occupiers with sufficient outside space. It is located in a largely residential street where there is a very low percentage of conversions. There is no evidence that the use of the appeal property causes any harm to the living conditions of neighbouring occupiers by way of noise or disturbance. The development also contributes towards providing a mix of housing types.
15. There is no evidence before me to indicate that the use of the appeal property creates any parking issues. I am satisfied that refuse storage and cycle storage can be dealt with by way of condition as there is room to provide these facilities at the appeal site. With regard to refuse, there have been 5 adults occupying the appeal property and the appellant has stated he can comply with the Council's requirements with regard to refuse. The development does therefore comply with all other aspects of Policy DMD5 apart from the second limb of (b).
16. However, the purpose of Policy DMD5 is to prevent harm to residential character and to prevent an excessive number of clustering of conversions or lead to an unacceptable level of noise and disturbance for neighbours. The Council itself states that the impact on the area would be neutral especially as from the street the property would maintain a residential character as C4 use is still classed as a dwellinghouse.¹ Every application has to be assessed upon its own merits but on the particular facts of this appeal, there is limited evidence that granting this application would result in an overconcentration and cause an imbalance of the

¹ Paragraph 6.4.3 delegated report

housing mix on this street. I therefore do not find that the development does harm the character and appearance of the area.

17. For the reasons identified above, the merits of this particular case, including the lack of harm to the residential character of the area, outweigh the conflict with criterion (b) of Policy DMD5 of the DMD. I am therefore satisfied that material considerations indicate a decision other than in accordance with the local plan. I am also satisfied that the development does not conflict with Policy CP5 of the CS and Policy H10 of the LP which collectively refer to providing for a range of housing sizes to meet housing need. It is also not in conflict with Policy D6 of the LP which refers to providing adequately sized rooms with functional layouts. I find Policy CP4 of the CS to be less relevant as it refers largely to new housing.

Conditions

18. I have to consider whether conditions are necessary. I agree with the parties that a condition is necessary for refuse and waste storage to protect the amenity of the area and to promote waste reduction. A condition for cycle storage will promote travelling by means other than private car. The retrospective nature of the development means that the wording of these conditions has to include sanctions in the event of non-compliance. The waste and cycle storage conditions provide for details to be submitted, approved and use to cease in the event of non-compliance. A condition to limit the number of occupants to 5 also provides certainty. I am satisfied that the condition limiting numbers does not need those sanctions as it can be enforced, if breached, by way of a breach of condition notice.
19. The parties were given an opportunity to comment upon the wording of the conditions. The Council asked for reference to the London Borough of Enfield Waste and Recycling Planning Storage Guidance to be added to the condition relating to refuse. I have included that reference but have also clarified that the relevant provisions are those relating to houses not flats to avoid uncertainty.

Conclusion

20. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the use as described in the notice as corrected, subject to conditions. The enforcement notice will be corrected and quashed. In these circumstances the appeals on grounds (f) and (g) do not fall to be considered.

E Griffin

INSPECTOR