



Appeal Decision

Site visit made on 15 July 2025

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 August 2025

Appeal Ref: APP/T5150/C/23/3324683

17 Marquis Close, Wembley HA0 4HF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Ross Cheung against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice was issued on 15 May 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) and flat.
 - The requirements of the notice are: 1. Cease the use of the premises as a House in Multiple Occupation (HMO) and flat. 2. Cease the use of the premises as an HMO. 3. Cease the use of the premises as flats. 4. Remove all kitchens and cooking facilities, except one, from the premises and remove all associated items, debris and materials, arising from this removal from the premises. 5. Remove all bathrooms and bathroom facilities, except two, from the premises and remove all associated items, debris and materials, arising from this removal from the premises. 6 Remove all partition walls, facilitating the unauthorised change of use from the premises, and remove all associated items, debris and materials, arising from this removal from the premises, so that the internal layout of the premises is returned back to a single family dwellinghouse as existed prior to the unauthorised use commencing.
 - The period for compliance with the requirements is six 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 (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 varied by in Schedule 4 substituting step 6 with the following step-‘Restore the premises to its condition before the development took place’. Subject to this variation, 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.

Preliminary Matters

2. My decision takes into account the revised National Planning Policy Framework, which came into force during the course of the appeal.
3. The appeal premises could not be accessed during my visit. However, I consider that the appeal can be determined on the basis of the information already available and from what I was able to view from public land.

Ground (a) appeal

Main Issues

4. The main issues in this ground of appeal are:
 - Whether suitable living conditions are provided for existing and future occupiers of the House in Multiple Occupation (HMO) and flat, having

regard to internal floorspace and outdoor private amenity space, as well as noise and disturbance.

- The effect on the living conditions of occupiers of neighbouring residential property, having regard to noise and disturbance and on-street parking.
- The effect on the character and appearance of the surrounding area.
- The effect on the supply of family housing in the Borough.

Reasons

Living conditions-existing and future occupiers of the HMO & flat

5. The premises contains an enlarged end of terrace residential building, providing living accommodation arranged over three floor levels. The self-contained flat is on part of the ground floor. The HMO has five bedrooms, with a bedroom and shared kitchen on the ground floor, three further bedrooms and a shared bathroom on the first floor along with a bedroom and shared bathroom on the second floor.
6. The Council's HMO Supplementary Planning Document (SPD) advises that as the primary private space for occupiers, bedrooms in an HMO should provide the minimum private internal space in Policy D6 of the London Plan (LP). This reflects the Government's Technical housing standards-nationally described space standard¹ and requires a single bedroom to have a floor area of at least 7.5m² and be at least 2.15m wide and a double or twin bedroom a floor area of at least 11.5m². The Brent Design Guide SPD (DG) also requires new development to adhere to the relevant space standards.
7. As far as I was made aware, none of the HMO bedrooms meet the minimum size requirements set out above. Obtaining an HMO licence for the premises has little bearing on whether the bedroom sizes meet the minimum standard for planning purposes. HMOs are licenced under separate legislation which sets minimum standards for amenities, safety and management practices. Therefore, on the basis of the information before me it is difficult to find other than that restrictive living accommodation is provided for occupiers of the HMO on account of some or all of the bedrooms not meeting the minimum internal space requirement.
8. The flat would need to have a gross internal floor area (GIA) of at least 70m² to meet the minimum internal space standard for a 2-bedroom, 4-person single storey dwelling in Table 3.1 to LP Policy D6. As I understand that the flat has been occupied by two adults with two children, it falls to be assessed against the minimum standard for 2-bedroom, 4-person living accommodation. There is nothing before me which might suggest that the flat is other than significantly deficient in GIA when assessed against the minimum space standard. That being the case and in the absence of anything which might indicate to the contrary, it is difficult to find other than that the flat provides the occupiers with cramped and congested living accommodation.
9. Policy BH13 of the Brent Local Plan (BLP) requires new dwellings, other than family housing with 3 bedrooms, to normally provide 20m² of outdoor private amenity space. There is a similar requirement in the DG. It is entirely possible that the garden at the rear of the premises meets the minimum 20m² required in respect of the flat. However, my understanding is that the rear garden is inaccessible other than by occupiers of the flat. This leaves occupiers of the HMO with little opportunity to undertake the sort of activities that are typically associated with an outdoor amenity space, including informal relaxation and drying clothes washing. There is no clear and convincing explanation concerning why no outdoor amenity space is provided for occupiers of the HMO. The lack of outdoor amenity space of

¹ MHCLG 2015

suitable size and quality reinforces the sense of a restrictive living environment experienced by occupiers of the HMO.

10. My understanding is that the HMO is occupied by roughly 6 persons. When the occupiers of the flat are also taken into account, the use as an HMO and flat has in all probability involved a significantly greater number of people occupying the premises, compared to the lawful use as a single dwelling. In general, occupiers of the HMO lead largely separate daily lives from other occupiers of the premises. It is unlikely for example that occupiers of the HMO share common connections or relationships or have similar work patterns or leisure interests. Consequently, occupiers of the HMO are in all likelihood undertaking activities such as cooking food and washing clothes or travelling for the purposes of work, leisure or to meet day-to-day shopping needs, separately from most other occupiers and at different times throughout the day. There has also probably been a considerable increase in pedestrian and vehicle-borne visitors to the premises associated with the use, including deliveries, compared to use as a single dwelling.
11. Given the likely scale of activity in shared spaces at the premises, such as the kitchen and hallway, together with the increase in the number and frequency of comings and goings, it is highly probable that occupiers of the HMO and flat experience significant incidences of noise and disturbance in their living spaces. This is especially likely where bedrooms are alongside shared spaces. There is no suggestion of any sound insulation having been provided to assist in mitigating the effects of such noise and disturbance on occupiers of the premises. The foregoing does not contribute positively to the provision of comfortable and relatively peaceful living environments in the HMO and flat.
12. Therefore, based on the information available, suitable living conditions are not provided for existing and future occupiers of the HMO and flat. This conflicts with LP Policy D6, which requires new dwellings to, amongst other things, be of high-quality design, with adequately sized rooms with comfortable and functional layouts which are fit for purpose providing at least the GIA set out in Table 3.1. There is conflict with criteria in BLP Policy DMP1, which require development to provide high levels of internal and external amenity and to not unacceptably increase exposure to noise and general disturbance. There is also conflict with criterion in BLP Policy BH7, which requires shared living accommodation to be of an acceptable quality which meets appropriate standards for the needs of its occupants, including external amenity space. Formation of the flat means there is no net loss of a dwelling and no conflict with BLP Policy BH10. However, there is conflict with BLP Policy BH13, which requires new dwellings to have external private amenity space of a sufficient size and type to meet the residents' needs.

Living conditions-occupiers of neighbouring residential property

13. The premises is located mid-way along a cul-de-sac, in an established residential area. Properties in the vicinity generally tend to be similar in size and as far as I could ascertain, are largely in single family occupancy. The cul-de-sac location means that pedestrian and vehicle movements are mostly limited to those associated with neighbouring residential properties. As a result, the surroundings exhibit a reasonably quiet residential character in which occupiers of neighbouring residential property could reasonably expect to enjoy relatively good levels of peace and tranquillity in their homes and gardens.
14. The significantly greater number of occupiers at the premises and the corresponding increase in activities arising from the use, along with the increased number and frequency of pedestrian and vehicular comings and goings, has also most likely contributed to a significant increase in incidences of noise and disturbance being experienced by neighbouring residential occupiers. The intensity of the use and the associated additional incidences of noise and disturbance is typical of a more urbanised setting and is therefore at odds with the otherwise

reasonably quiet residential context. Also, given the absence of details of any sound insulation installed there is little assurance that the effects of additional noise and disturbance on occupiers of the neighbouring attached property from increased activity at the premises is adequately mitigated.

15. I recognise that HMOs often provide living accommodation to persons from lower income groups who may be less able to afford the significant costs normally involved in running a private car. Even so, as far as I was made aware occupiers of the premises are not prevented from accessing a private car, nor are any future restrictions proposed in that respect. The premises does not have convenient access to public transport services; it has a Public Transport Accessibility Level (PTAL) of 1a, reflecting the relatively poor access to bus and rail services. Given the circumstances, it is not unreasonable to expect that a significant number of occupiers of the premises require access to a private car to meet their day-to-day travel needs. There is limited off-street parking available at the premises; it is highly unlikely that the hard surfaced area at the front could accommodate more than one car. Therefore, in all likelihood the car parking associated with the use considerably exceeds the off-street parking available, leading to a number of additional cars trying to park on this or the surrounding streets.
16. When I visited, cars were parked along most of the available length of both sides of the street and in the surrounding streets, leaving little if any space for further cars to park safely or conveniently. The demand for on-street parking in the vicinity is likely to rise at other times, i.e. during the evening and at weekends. Accordingly, the use is likely to have considerably increased pressure to park further cars in this and on the surrounding streets, where spare capacity is in all probability quite limited at most times. This exacerbates parking congestion and causes inconvenience to neighbouring occupiers.
17. Consequently, the use adversely affects the living conditions previously enjoyed by occupiers of neighbouring residential property. This conflicts with criteria in BLP Policy DMP1, which require new development to, amongst other things, not unacceptably increase exposure to noise and general disturbance and to be satisfactory in terms of means of access for all, parking, manoeuvring and servicing, with no adverse impact on the movement network. There is also conflict with criteria in BLP Policy BH7, which requires shared living accommodation to be located where there is good access to public transport and other amenities including shops and to include agreed management arrangements suitable to the use and size to not unacceptably impact on neighbouring amenity.
18. Furthermore, the use conflicts with BLP Policy BT2, which requires new development to, amongst other things, not have adverse impacts on existing parking and not add to on-street parking demand where on-street parking spaces cannot meet existing demand such as on heavily parked streets, or otherwise harm existing on-street parking conditions. Additionally, there is conflict with LP Policy T6, which requires new developments to be designed with the minimum necessary parking, as well as LP Policy T6.1, which requires new residential development to not exceed the maximum parking standards set out in Table 10.3.

Character and appearance

19. Residential properties in the street and the surrounding area mostly exhibit considerable similarities in terms of their scale, architectural style and age. This contributes to the premises and its environs having a generally orderly and settled, as well as reasonably quiet, residential character and appearance.
20. The significant increase in noise and disturbance associated with the use is also at odds with the largely quiet residential characteristics of the surroundings. Moreover, given the accumulation of waste and recycling bins stored at the front of the premises, which exceed that normally associated with a single dwelling, the use contributes to a significant and appreciable erosion in the appearance of the

premises and its environs. The accumulated bins give the premises frontage a utilitarian appearance more typical of an inner urban setting and therefore appear as an alien feature in the otherwise residential street scene.

21. I am given to understand that occupiers of the premises can store cycles in a shed in the rear garden. Even if this were to be the case, such storage is inconvenient and so is likely to be little used, not being located close to the entrance of the premises. The indiscriminate parking of cycles along with the uncertain management of the external areas including the rear garden also does not compare favourably with the generally more orderly visual qualities of the residential surroundings.
22. Consequently, the use significantly and harmfully erodes the character and appearance of the surrounding area. This is in conflict with other criterion in BLP Policy DMP1, which provides that new development should complement the locality in terms of the location, use, concentration, siting, layout, scale, type, density, materials, detailing and design.

Supply of family housing

23. BLP Policy BH11 provides for the maintenance of family sized housing (with 3 or more bedrooms) by requiring that when forming additional dwellings such properties should, amongst other things, have a floor area of at least 130m² and should provide at least a 3-bedroom dwelling, preferably with direct access to a garden/amenity space. This is to ensure the continued provision of housing suitable for occupation by families to meet the Borough's housing needs.
24. As the lawful use is as a single dwelling and the number of bedrooms is in excess of 3, the premises meets the BLP definition of a family sized home. The use has led to the loss of such a home, as a unit of living accommodation with 3 or more bedrooms is not provided. The flat is not suitable for occupation by families on account of its likely restrictive size. No exceptional circumstances which might have justified the loss identified were drawn to my attention. Therefore, the use adversely affects the supply of family homes in the Borough, in conflict with BLP Policy BH11. There is no conflict with BLP Policy DMP1 in this respect, however.

Other matters

25. I acknowledge that the use makes a small-scale contribution to meeting housing needs generally in the Borough. This factor carries modest weight.

Conclusion-Ground (a) appeal

26. Suitable living conditions are not provided for existing and future occupiers of the HMO and flat, there is harm to the living conditions of occupiers of neighbouring residential property as well as to the character and appearance of the surrounding area and there is an adverse effect on the supply of family housing in the Borough. This is in conflict with the Development Plan, taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the Development Plan. Therefore, I conclude that the ground (a) appeal should not succeed.

Ground (f) appeal

27. The ground of appeal is that the requirements of the notice are excessive.
28. An enforcement notice can have the purpose of remedying the breach of planning control, including by restoring the land to its condition before the breach took place, and/or it can have the purpose of remedying any injury to amenity caused by the breach. The notice clearly states that the purpose is the former. This is also evident from the steps, which require the unauthorised use to cease, along with the

removal of works considered to facilitate that use. Those steps are clearly intended to restore the premises to its condition prior to the breach.

29. The appellant's case on this ground is largely focussed on step 6, which requires the removal of partition walls that facilitate the unauthorised use. It is well-established that an enforcement notice directed at a material change of use can require the removal of works integral to and solely for the purpose of facilitating the unauthorised use, even if such works on their own might not constitute development, or be permitted development, or be immune from enforcement action, so that the land is restored to its condition before the breach took place.
30. Even so, there is no firm evidence of partition walls having been installed solely to facilitate the unauthorised use. The Council did not explain exactly which partition walls they considered had been installed to do so. An enforcement notice cannot require the removal of works that were undertaken for a different and lawful use and which could be utilised in the lawful use if the unauthorised use ceased. Therefore, the removal of partition walls risks being a more onerous step than that required to remedy the breach.
31. Given the circumstances, I shall exercise the power in s176(1)(b) of the Act to vary the terms of the notice to substitute step 6 with a requirement to restore the premises to its condition before the development took place. This would be sufficiently clear and precise. As the landlord, the appellant is likely to be the person with the best knowledge of what that previous condition was. It would also be proportionate, along with the other steps being the minimum requirements necessary to remedy the breach. There would be no injustice in varying the notice accordingly.
32. Therefore, the ground (f) appeal succeeds to that extent.

Ground (g) appeal

33. The ground of appeal is that the time allowed for complying with the notice requirements falls short of what is reasonable.
34. I acknowledge the significant constraints generally in terms of the availability and affordability of rental housing in the greater London area. Be that as it may, there is little firm evidence before me which might suggest that the tenants would experience particular difficulty in searching for and securing suitable alternative living accommodation, whilst also allowing for the remedial works to be undertaken, within the six-month timescale specified in the notice.
35. Accordingly, in my estimation the time allowed for compliance is reasonable and not too short. An appropriate balance is struck between remedying the breach as soon as practicable, whilst not placing a disproportionate burden on the appellant or their tenants. Extending the compliance period on the other hand would do little more than perpetuate the breach. The ground (g) appeal fails.

Conclusion

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

Stephen Hawkins

INSPECTOR