



Appeal Decision

Site visit made on 29 July 2025

by H Whitfield BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th August 2025

Appeal Ref: APP/G5750/W/25/3364978

145 Vicarage Lane, Stratford, Newham, London E15 4HJ

- 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 & Mrs YC & HC Ng against the decision of the Council of the London Borough of Newham.
 - The application Ref is 22/02658/FUL.
 - The development proposed is described as “no works, hybrid C3/C4”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading is taken from the application form. The Council amended the description of development during the determination of the planning application to “retrospective planning application for the change of use to a large house in multiple occupancy (Sui generis HMO)”. However, it is clear from the appellant’s evidence that whilst they have adopted this amended wording on the appeal form, their intention is for the House in Multiple Occupation (HMO) to be limited to a total of 6 people. The evidence does not indicate that the appellants intention was to apply for a large HMO (a sui generis use), and I have therefore dealt with the appeal on the basis of the proposal being for a C4 use.
3. An Article 4 Direction has been made by the Council, which came into effect in July 2013 and removes permitted development rights for a change of use from Class C3 to Class C4. This therefore forms part of my assessment of this appeal.
4. There is dispute between the parties over the status of the basement and whether this should be regarded as a bedroom. I note that this room is not annotated as a bedroom on the Proposed Plans¹ and the appellant’s statement of case refers to this as a home office. Given the appellant has not sought permission for this room to be used as a bedroom and a suitably worded condition could be imposed to ensure it was not used as a bedroom in the event the appeal was to be allowed, I have not assessed it as such. I have therefore assessed the appeal on the basis that the appeal property has 5 bedrooms.
5. From the evidence and my observations on site, the property is currently in use as a HMO. At the time of my site visit the basement did not contain a bed and appeared to be in use for storage.

¹ Drawing no. LIVARCH/145VL/102 A

6. The appeal has been accompanied by a unilateral undertaking (the UU) pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended). The UU relates to a personal permission for the appellant to use the site as a HMO and for the use to cease and return to a single dwellinghouse when the appellant no longer occupies the land. However, the UU is incomplete, undated, marked draft and is not signed or witnessed. Consequently, it has no legal effect and therefore it is not determinative in my consideration of this appeal.

Main Issues

7. The main issues are:
- the effect of the development on the supply of family-sized housing in the Borough;
 - whether the development would provide acceptable living conditions for future occupants, with regard to communal living space, outlook and light;
 - whether the development would provide acceptable living conditions for nearby residents, with particular regard to noise and disturbance; and
 - whether the development would make adequate provision for sustainable travel.

Reasons

Supply of family-sized housing

8. The appeal dwelling is a 5-bed property and thus classes as family housing. Policies S1 and H1 of the Newham Local Plan 2018 – A 15 year plan looking ahead to 2033 (the NLP) encourage the provision of mixed and balanced communities and the protection and replacement of family housing lost to conversion. Policy H3 of the NLP states that HMOs should be purpose-built or converted from premises other than family-sized dwellings, subject to Policies H1, H3 and H4, the latter of which states that the Council will specifically protect 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 align with paragraph 63 of the National Planning Policy Framework (the Framework) which states that policies should reflect the housing needs of different groups in the community, including families with children.
9. Nevertheless, Policy H4 provides an exception where the conversion of 3+ bed housing may be appropriate, subject to meeting all of the exemption criteria and the satisfaction of other policies. In this respect, the appellant states that 145 Vicarage Lane (No 145) is located approximately 139m from the Local Centre and is well served by Linear Gateways/Movement Corridors. This is disputed by the Council. I have not been supplied with any details of the location of the local centre or where the identified Movement Corridors or Linear Gateways are. However, even if the proposal were to meet this criterion, No 145 has a clearly defined front entrance, access to external private amenity space to the rear and is not located above an existing occupied commercial unit. It therefore does not meet the remaining criteria of Policy H4.
10. The appellant states that the site is not within an area where there is a high concentration of HMOs, and the appeal scheme supports the creation of mixed and balanced communities. However, I have no substantive evidence before me which identifies the location of HMOs in the immediate area for me to reach any firm conclusions on this matter. The NLP does, however, identify a high proportion of HMOs

in the Borough overall that have arisen from the conversion of family-sized homes and a need to retain this existing stock to meet housing need.

11. While the appeal scheme would retain No 145 for residential purposes, planning permission has been sought for its conversion to a HMO. Irrespective of whether the appellants intend to continue residing at the property and retain a bedroom for their son, the plans do not show any of the bedrooms would provide the facilities required for day-to-day private existence or comprise self-contained flats. Occupiers of all 5 bedrooms would therefore share kitchen, dining and living facilities. The property could accommodate between three to six unrelated individuals, formed by more than two households. The proposal would therefore constitute a HMO, and this removes it from being classed as a family dwelling for planning purposes.
12. The appellant proposes a condition could be imposed to ensure the appellant continues to reside at the property to retain a family dwelling use. In the event such a condition is not considered enforceable, the appellant has also submitted a draft UU for a personal permission. However, notwithstanding the deficiencies with the UU that I have already identified, even if this had been a completed document capable of taking legal effect, or I considered a condition to be appropriate, the Planning Practice Guidance advises that planning permission usually runs with the land and that it is rarely appropriate to provide otherwise, other than in exceptional occasions². In my view it would not be reasonable or relevant to the development permitted to grant a personal permission for the Appellant to operate the HMO, given that the proposal would still result in the loss of a family-sized dwelling for which there is a clear policy presumption against.
13. For the above reasons, I therefore conclude that the proposal would result in the loss of a family-sized house and would therefore have a detrimental effect on the supply of family-sized housing within the Borough. This is contrary to Policies S1, S6, H1, H3 and H4 of the NLP and Policies GG4 and H10 of the London Plan 2021 (the London Plan) which together and amongst other things, seek to support mixed and balanced communities and prevent the loss of family-sized housing. The Council refers to Policy H8 of the London Plan, however, as this relates to the loss of existing housing through estate redevelopment it is not determinative in my consideration of this main issue.

Living conditions of future occupants

14. As set out in the preliminary matters, the plans show the appeal proposal would be a 5-bed HMO. Three bedrooms would be provided on the first floor and two on the second floor. I understand that the site currently has a HMO license which expires in October 2027. There is dispute between the parties as to the maximum occupancy permitted by the license. The appellant states the maximum occupancy is 6 people and the Council states the maximum is 9 people. I have not been supplied with a copy of the HMO license. However, notwithstanding the fact that the floor areas of some of the bedrooms would meet the East London HMO Guidance (4) (the HMOG) for double occupancy, implicit in the development being for C4 use is that the maximum occupation would be six persons.
15. The appellant contends that the HMO has a combined living and dining area. However, the plans show the dining room is clearly separate from the living room by a dividing wall, accessed off the hallway by separate doors and this aligns with my observations on site. Where the living room and dining room is separate, the HMOG states a 6-person HMO should have a communal living room of at least 16sqm. The plans show

² Paragraph: 015 Reference ID: 21a-015-20140306

the living room annotated as 13.6sqm which falls below the space standard in the HMOG. Whilst the HMOG recognises that the standards should be applied flexibly as guidance, they are material insofar as they seek to ensure occupants are provided with adequate living accommodation. There is no dispute that the size of the kitchen meets the standards in the HMOG. A separate dining area is also provided, and the basement room would serve as a home office. However, the design of the basement room, with limited natural light and restricted outlook, does not lend itself to be considered as a communal living space.

16. The appellant contends that as the property has a HMO license, this demonstrates the acceptability of the standard of accommodation. I also note the appellant states that in the event the internal living areas are considered sub-standard, a HMO license would not be granted. However, I have not been supplied with a copy of the license that covers the property or the standards against which this might have been assessed at the time it was issued. Based on the evidence before me in this appeal, the communal living room would fall approximately 2.4m short of the HMOG which indicates that there would be insufficient space for the maximum amount of potential future occupants to be able to relax together comfortably. Given this deficiency, I find that the HMO fails to provide an acceptable living environment for future occupants.
17. In assessing the basement room as a bedroom, the Council has concluded that it would have insufficient natural light and quality of outlook and thus would result in unacceptable living conditions for future occupants. However, given the appellant has not sought for this room to be used as a bedroom and a suitably worded condition could be imposed to ensure it was not used as a bedroom in the event the appeal was to be allowed, I have not assessed it as such. The Council has not raised any concerns relating to adequate provision of natural light and outlook to bedrooms 1 to 5 and I see no reason to come to a different conclusion on this matter. I therefore find that the HMO provides acceptable living conditions for future occupants in respect of provision of natural light and outlook.
18. Nevertheless, for the reasons given above, I conclude that the appeal scheme fails to provide acceptable living conditions for future occupants with particular regard to communal living space. This is contrary to Policies SP2, SP8, H1 and H3 of the NLP and Policies D6 and H9 of the London Plan. Together, and amongst other things, these policies seek to ensure that developments improve housing quality, provide adequately sized rooms with comfortable and functional layouts which are fit for purpose and provide an appropriate standard of amenity.
19. The Council has referred to SP1 of the NLP, however as this relates to strategic principles and the spatial strategy for borough-wide place-making, it is not determinative in my consideration of this main issue.

Living conditions of nearby residents

20. No 145 is a 5-bedroomed mid-terraced dwelling in a predominantly residential area. At the time of my site visit I observed moderate ambient noise levels, predominately from passing vehicles. While I accept that my site visit provides only a snapshot of the conditions within the area, there is nothing in the evidence before me to suggest that what I saw and heard was untypical. There are blocks of flats in relatively close proximity to the site. However, the area is predominately characterised by two-storey terraced properties. Given the property is a mid-terrace, the presence of adjoining neighbours' results in the potential for activity within the property to result in noise and

disturbance. As a 5-bedroomed family house, it could be occupied by 6 or more people that would generate daily comings and goings. Albeit the frequencies of these and the likelihood of these being shared trips would vary depending on the ages of the occupiers.

21. The HMO accommodates 6 occupiers, and this could result in increased comings and goings from a greater number of people living independent lives. The Council contends that this would result in additional noise and disturbance which would adversely affect the living conditions of neighbouring residents. However, whilst occupiers of the HMO could have separate working patterns, visitors and comings and goings, there is no substantiated evidence before me to demonstrate that this would result in any greater effect than if the property were occupied by a single family of more than 6 persons. I note that HMOs are typically associated with more transient occupation. However, this does not automatically mean that occupiers are less committed to their home or neighbourhood, as the Council suggests, and thus more likely to create noise and disturbance.
22. Moreover, I note the property is currently in use as a licensed HMO and the appellant states that there have been no noise complaints in relation to this use, which is undisputed by the Council. The HMO would also require a mandatory license to continue operating, which the appellant states would include for effective tenant management. This would satisfactorily mitigate any potential unacceptable impacts associated with noise and disturbance.
23. On this basis, I conclude that the appeal scheme provides acceptable living conditions for nearby residents, with particular regard to noise and disturbance. This would comply with Policies SP3 and SP8 of the NLP and Policies D3 and D14 of the London Plan which collectively seek, amongst other things, that developments deliver appropriate amenity and ensure neighbourly development by avoiding significant adverse noise impacts on health and quality of life. The Council also refers to Policy D8 of the London Plan, however, as this policy relates to the public realm it is not determinative in my consideration of this main issue.

Sustainable transport

24. The Council states that 6 secured cycle parking spaces would be required to serve the HMO. Policy T7 of the London Plan relates to cycling and sets out minimum standards for developments. For C3 and C4 uses the policy requires 1 cycle space per 1-person 1-bed dwelling, 1.5 spaces per 2-person 1-bed dwelling and 2 spaces per all other dwellings.
25. It is not clear how the Council has arrived at the requirement for 6 cycle parking spaces. Based on the C3 and C4 standards in Policy T7, 2 spaces would be required. Cycle parking is not shown on the submitted plans; however, I observed that the property has space to the front and a reasonable sized rear garden which the appellant contends is sufficient external space to provide secure cycle storage facilities.
26. From the evidence before me and what I saw on site, I am satisfied that there is sufficient external space to accommodate secured cycle parking spaces on site, even if I were to take the Council's higher figure. This matter could be addressed by a suitably worded condition in the event the appeal was to be allowed. Subject to the imposition of such a condition, I am satisfied that the appeal scheme could provide sufficient cycle parking.

27. For these reasons, I conclude that the proposal would provide adequate provision for sustainable travel which complies with Policy INF2 of the NLP and Policy T5 of the London Plan, which together and amongst other matters, seek to ensure that developments provide adequate bicycle storage facilities. There would also be no conflict with the Framework, insofar as it advises that developments should provide secure cycle parking.

Other Matters

28. The site falls within the Zone of Influence of the Epping Forest Special Area of Conservation (SAC), which is a European site as defined by The Conservation of Habitats and Species Regulations 2017 (as amended). However, as I am dismissing the appeal for other reasons, it is not necessary for me to consider whether there would be a Likely Significant Effect on the integrity of the European Site or to undertake an appropriate assessment.
29. I also note that the Council raises concerns with regard to the lack of personal washing and toilet facilities. However, given I am dismissing the appeal for other reasons, I have not considered this matter further.

Planning Balance

30. Notwithstanding my findings on the effects on nearby residents and sustainable travel, I have found that the appeal scheme results in the loss of a family-sized dwellinghouse and therefore adversely affects the supply of family-sized housing in the Borough. I have also found that the scheme fails to provide acceptable living conditions for future occupants with regard to communal living space, contrary to the aforementioned policies of the NLP and London Plan. This is sufficient to bring the development into conflict with the development plan when read as a whole. Development that conflicts with the development plan should normally be refused unless material considerations indicate otherwise.
31. The Council has supplied a copy of its Site Allocation and Housing Trajectory Methodology Note (June 2025) which concedes that it cannot currently demonstrate a five-year supply of deliverable housing sites. The document states that taking the shortfall and buffer into consideration, the Council only has a housing land supply of 2.22 years, which is a very significant shortfall. In this circumstance, paragraph 11(d) of the Framework is engaged. There is no suggestion from either party that the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the appeal scheme, consequently paragraph 11(d)(i) does not apply. Therefore, I shall consider the proposal against the test in paragraph 11(d)(ii).
32. The host property is already a house and, as such, the proposal would not add in numerical terms to the quantum of the housing stock, nor would it constitute the re-development of previously developed land in the truest sense. However, the scheme would provide a HMO that could accommodate 6 unrelated occupants, resulting in a more intensive use of the property, which is in a well-connected area. This would assist with providing increased housing choice and options and would align with policies within the Framework which seek to significantly boost the supply of homes, including the variety of them. However, set against this would be the loss of a 5 bedroomed property, that could be used by a family and which the Development Plan specifically seeks to protect. There would be some economic benefits through future occupiers contributing to local services and facilities and the proposal could provide an

environment which promotes social interaction. However, the benefits associated with this scale of development would be modest and tempered by the fact that a property that could be occupied as a family dwelling would be lost as a result. As such, even when taken collectively, the benefits attract limited weight.

33. Set against these benefits is the harm that has been identified from the development through the loss of a family-sized house which would affect the supply of family-sized housing in the Borough, and the failure to provide acceptable living conditions for future occupants due to inadequate communal living space. This conflicts with the policies of the Framework which seeks to ensure a sufficient supply of housing for groups in the community such as families with children and to provide a high standard of amenity for future users. This harm attracts significant weight.
34. Overall, whilst there is a shortfall in the five-year housing land supply, in the specific circumstances of this case, the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the development when assessed against the policies of the Framework, when taken as a whole. Therefore, the presumption in favour of sustainable development does not apply.

Conclusion

35. The proposal conflicts with the development plan when considered as a whole and the material considerations do not indicate that a decision should be made other than in accordance with the development plan. Therefore, the appeal is dismissed.

H Whitfield

INSPECTOR