



Appeal Decisions

Site visit made on 26 June 2025

by **E Griffin LLB Hons**

an Inspector appointed by the Secretary of State

Decision date: 18 August 2025

Appeal A Ref: APP/E5900/W/24/3344204

21 White Church Lane, London E1 7QR

- 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 H. J. Kullar Limited against the decision of the Council of the London Borough of Tower Hamlets.
- The application Ref is PA/23/00287.
- The development proposed is Part-retrospective application for change of use from public house to a large HMO (Sui Generis) on 1st, 2nd and 3rd floors.

Appeal B Ref: APP/E5900/C/24/3345892

21 White Church Lane, London E1 7QR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by H. J. Kullar Limited against an enforcement notice issued by the Council of the London Borough of Tower Hamlets.
- The notice was issued on 1 May 2024.
- The breach of planning control as alleged in the notice is Without planning permission, the unauthorised change of use from public house to a large HMO (Sui Generis) on 1st, 2nd and 3rd floors, shown in the approximate location outlined in red on the attached site plan in Appendix 1.
- The requirements of the notice are
 - 1) Cease the use of the property as a large HMO (Sui Generis) and return its use back to a public house (Sui Generis) shown in photographs 2A and 2B of Appendix 2 shown in the approximate location outlined in red on the attached site plan
- The period for compliance with the requirement is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) 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.

Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. It is directed that the enforcement notice is varied by:
 - (i) Deleting the words 'unauthorised change of use from public house' from the allegation and replacing them with 'unauthorised material change of use of part of the public house.'
 - (ii) Deleting the requirement in full and substituting it with 'Cease the use of the property as an HMO.'
 - (iii) Deleting '3 months' and its substitution with '6 months' as the period for compliance.
3. Subject to the correction and variations, the appeal is dismissed and the enforcement notice is upheld.

Appeal A

Preliminary Matters

4. Appeal A is a planning appeal against the Council's refusal to grant planning permission for a large House in Multiple Occupation HMO(Sui Generis) use at the appeal site. The application is part retrospective as HMO use has occurred but the appellant proposes changes which include a reduction in the number of occupiers and provision for refuse and cycle storage arrangements.

Main Issues

5. The main issues are:
 - whether the proposal provides satisfactory living conditions for occupiers with particular regard to external amenity space and noise
 - whether it has been demonstrated that the viability of the public house use is not undermined by the HMO use on the upper floors
 - whether the proposal provides suitable arrangements for cycle parking and refuse storage
 - Whether the proposal meets the strategic housing needs of the Borough
 - whether the proposal has an impact upon the strategic functions of the Central Activities Zone designation of the area
 - whether the proposal would preserve or enhance the character or appearance of the Whitechapel High Street Conservation Area (the CA)

Reasons

6. White Church Lane is of mixed character and is made up of a mix of shops at ground level with residential accommodation above and also high rise blocks. The appeal site consists of an end of terrace 4 storey building with a basement dating from the end of the last century which is located on the corner of White Church Lane and Manningtree Street.
7. The previous lawful use of the appeal site was as a public house at ground and basement levels with the three upper floors being in use as ancillary residential accommodation to the public house. Whilst the ground floor retains the public house frontage including 'The Bar Locks' signage on the ground floor, the public house use ceased prior to the appellant's purchase in 2021.
8. The appeal site is located within an area where there is an Article 4 Direction in force which means that a planning application is required for a change of use to HMO. It is also located within the Whitechapel High Street Conservation Area and the public house building is a non- designated heritage asset.

Housing standards

9. Policy D.H7 of the Tower Hamlets Local Plan 2031 (Adopted January 2020)(the Local Plan) refers to supporting proposals for HMOs subject to meeting criteria which includes complying with relevant standards and satisfying the housing space standards outlined in Policies D.H3 and D.DH8.

10. Policy D.H3 of the Local Plan addresses housing standards and quality and refers specifically to minimum amenity space standards. Policy D.DH8 refers to protecting the amenity of buildings and their occupants by ensuring that developments are well designed including internally.
11. Proposed changes to the existing unauthorised HMO use include creating an outside amenity space on the flat roof above the first floor. Using the flat roof as amenity space will require a new access to be created from the internal staircase. Given its location, it appears unlikely that the use of the area would create noise for any neighbouring properties. However, there is a bedroom next to the proposed amenity area and no information is provided as to how use of that area by the other occupiers and potentially their visitors would be controlled to avoid any noise disturbance.
12. The location of the HMO on upper floors does mean that providing external amenity space is difficult. The appellant acknowledges that the size of the amenity space at around 17 square metres is an under provision for an HMO for 10 occupiers but considers that the spaciousness of the internal layout mitigates the under provision. However, I do not find that to be the case. I note that there is a park nearby but there is also a lack of internal communal space which is not offset by the presence of the park.
13. The only existing communal space on each of the three floors is a kitchen. The three kitchens vary in size but the kitchen on the first floor is less than 8 square metres has no windows, a table for one person to sit at and no space for the occupiers to sit together and eat. The proposed changes also include a reduction in the number of bedrooms to create a 10 person HMO rather than the existing 13 person HMO. Two bedrooms on the second floor would be replaced with living and dining areas and one bedroom on the first floor would become a cycle storage area for 6 cycles.
14. However, each floor has a locked door off the staircase to gain access to the bedrooms and kitchen. It seems unlikely that occupiers would use a kitchen other than the one on their floor. Adding communal space including a dining area on only one floor still leaves occupiers of the other floors with only kitchens as communal space. Whilst an HMO licence has been granted, the licensing and planning regimes are entirely separate. Even with the proposed changes, there is insufficient functional, internal communal facilities that would justify having less external amenity space.
15. The existing lawful use of the ground floor and basement is a public house which is a noise generating activity. When the public house operated as a single planning unit, the landlord retained overall control of it which included managing noise. The living conditions of the landlord's family are therefore not comparable to the living conditions of the occupiers of the HMO following the creation of two separate planning units. The material change of use and division of the planning unit also means that the proposal has to comply with the development plan policies that are now in force.
16. The appellant refers to the separation between the ground floor and the upper levels exceeding building regulation acoustic requirements. I have no details of what has been installed or what those requirements are or any indication that the Council has been provided with that information for consideration. It may be that

there is sufficient mitigation to allow materially different uses to co-exist in what was a single planning unit but that information is not before me.

17. The appellant refers to the precedent of residential use already existing when the lawful use of the upper floors was as ancillary accommodation to the public house. However, occupation by 10 unrelated individuals as their permanent home is materially different from occupation over 3 floors by the landlord's family. Whilst some informal letting may have taken place to non-family members, I have limited evidence of that and again occasionally letting out rooms is materially different to use by long term tenants.
18. The ground floor still has a lawful use as a public house in the absence of any new approved use and the appellant has referred to possible wine bar or restaurant use. These uses would generate noise. The appellant refers to numerous examples of residential uses co-existing with commercial uses but I have no details of what properties the appellant is referring to or the type of commercial use to be able to assess if they are comparable to the appeal building. A condition requesting an acoustic survey would not resolve this issue as there is no certainty as to what measures would be required as a result of the survey and how and if they would be achievable.
19. For the reasons given, I do not find that the proposal does provide satisfactory living conditions for occupiers with particular regard to external amenity space and noise. It is therefore contrary to Policy D.H3 of the Local Plan which amongst other things refers specifically to minimum amenity space standards and Policy D.DH8 refers to protecting the amenity of buildings and their occupants by ensuring that developments are well designed including internally. It is also contrary to Policies D13 and D14 of the London Plan which collectively refer to managing and mitigating noise.

Viability of the Public House

20. Policy D.CF4(3) of the Local Plan states that 'Proposals within the curtilage of a public house must demonstrate that the continued operation and viability of the public house would not be compromised'.
21. Policy HC7 of the London Plan 2021, states that 'Development proposals for redevelopment of associated accommodation, facilities or development within the curtilage of the public house that would compromise the operation or viability of the public house use should be resisted'.
22. Policy S.DH3 of the Local Plan does state that proposals to alter, extend or change the use of a heritage asset will only be permitted where in the case of a change of use from a use for which building was originally designed, a thorough assessment of the practicability of retaining its existing use has been carried out outlining the wider public benefits of the proposed alternative use.
23. The change of use of the upper floors of the property to HMO use has resulted in the loss of the residential ancillary accommodation of the Public House. The proposal includes cycle and refuse storage on the ground floor. There is no assessment provided which addresses how the HMO use impacts the lawful use of the ground floor and basement, including the part that would be lost for storage. The appellant purchased the whole of the appeal site in July 2021 and the public house had closed down prior to that date. The only evidence supplied by the

appellant of any marketing consists of undated letting particulars for the ground floor and basement. The appellant indicates that there was advertising for 9 months but no dates are provided as to when that was.

24. The appellant considers that there is no requirement for public houses to have ancillary accommodation and that not having the overhead expense associated with that accommodation would make public house use more likely. However, there is limited information as to what professional advice was obtained about the marketing of either the whole or part of the building from the time of the appellant's purchase in 2021 and advertising as a public house without the upper floors provided no interest.
25. A list of public houses that have closed since 1911 in the Aldgate, Stepney and Whitechapel areas has been provided. However, the list covers a wide area over a long period of time. I have no details of why those public houses closed or how comparable they are to the appeal site in terms of the nature of the business or the location. The list also excludes public houses that have re-opened. It may be the case that there is limited demand for a public house in this location but the onus is on the appellant to provide the evidence to support that position.
26. The building as a whole was originally designed as a public house and there is no assessment as to how using part of the ground floor for storage use in addition to HMO use on the upper floors impacts the likelihood of public house use resuming in the future.
27. For the reasons given, it has not been demonstrated that the viability of public house use is not undermined by the subdivision of the original planning unit. The proposal is therefore contrary to Policy D.CF4(3) of the Local Plan and Policy HC7 of the London Plan 2021, which collectively seek to ensure that reasonable efforts are made to preserve community facilities including public houses. The proposal is also contrary to Policy S.DH3 which, amongst other things, requires an assessment of how the changes on the ground floor will impact retaining public house use in the future.

Cycle and refuse storage space

28. There is no existing arrangement for cycle and refuse storage for occupiers of the HMO. The appellant proposes 4 Sheffield cycle stands on the ground floor and a further 6 stands on the first floor in what is currently a bedroom but indicates that he is unclear of what provision is required for 10 occupiers. The appellant indicates that more cycles could be provided on the ground floor if a different type of stand was used. If that was the case then it is not clear whether the first floor bedroom would remain in use as a bedroom. As part of my site visit, I saw a partially constructed cycle storage and refuse area which has been sectioned off with internal walls to separate it from the rest of the ground floor. It is proposed that access would be from Manningtree Street.
29. Having cycle storage on the first floor is unlikely to be attractive for occupiers due to the need to use the stairs and internal doors and does not meet the policy requirements which include step free access. There is no certainty in terms of what is being proposed or required in terms of numbers of cycle spaces or any indication that what is being proposed can comply with the London Cycle Design Standards or the relevant policies.

30. Refuse storage is clearly required when the existing arrangement is for occupiers to put plastic bags out on the pavement which is unsightly and unhygienic. The appellant proposes that bins be left on the corner of the street on collection day and be stored within the area to be provided on the ground floor. However, there is limited information in terms of numbers of bins that are required and how the appellant has calculated the size of the ground floor storage required for both cycles and refuse and whether the space is adequate for both refuse and cycle storage. There is also the possibility that if the first floor room was not required for cycle storage, then the appellant may wish to use the room for other purposes which may alter the number of occupiers.
31. In conclusion, there is insufficient information provided to show that suitable arrangements for cycle parking and refuse storage can be provided. This conflicts with Policies D.TR3 and D.MW3 of the Local Plan which require development to prioritise sustainable approaches to any parking through, amongst other things, giving priority to space for cycle parking; and include sufficient accessible space to separate and store dry recyclables organics and residual waste for collection.

Housing Need

32. Policy DH7 refers to HMOs being supported where they meet an identified need. The Local Plan acknowledges in the supporting text of Policy D.H7 that there is an increasing demand for HMO-style accommodation in the borough, particularly among young people.” However criteria (c) of D.H7 requires HMOS to be secured as a long-term addition to the supply of low cost housing or otherwise provide an appropriate amount of affordable housing.
33. The appellant states that he provides an affordable option for students seeking long term accommodation as well as appealing to working professionals when public transport, local shops and key services are nearby. Whilst that may be the case, no details are provided of the circumstances of current occupants or how future vacancies would be allocated. Even if the proposal does represent low cost housing, there is no mechanism before me to show how the use could be secured as a long term addition to low- cost housing. In this respect, the proposal conflicts with Policy D.H7 1 (c) of the Local Plan.

Central Activities Zone

34. The appeal site is located within the Central Activities Zone (CAZ) designated within the London Plan. Policy STC 1 requires development to support the role and function of the town centre hierarchy in line with principles which include applying the London Plan’s approach to development within the CAZ. The Council’s reason for refusal specifically refers to the provision of HMO use at ground level as the appellant is proposing sectioning off part of the ground floor as cycle and refuse storage.
35. The appeal building is located at the end of a row of buildings which form a shopping frontage at ground floor level. Use of part of the ground floor in connection for cycle and refuse storage for HMO use is not a town centre use. There is no evidence to show that taking part of the ground floor for storage use would not compromise the practical operation of any separate proposed use on the ground floor. The appellant refers to the amount of space loss being insignificant but I have no details as to how much space is available on the ground

floor or any evidence to indicate that splitting the ground floor in this way is unlikely to affect marketability and future use of the building.

36. In summary, it has not been demonstrated that converting part of the ground floor is not going to undermine the vitality and viability of the CAZ by reducing the area available at ground floor for town centre uses. The proposal is therefore contrary to Policy S.TC1 which requires development to support the role and function of the town centre hierarchy. It is also contrary to Policies SD4 and SD5 of the London Plan which collectively seek to ensure that new residential development does not compromise the strategic functions of the CAZ.

Heritage Matters

37. The appeal site lies within the Whitechapel High Street Conservation Area and is a non-designated asset. I have addressed the policy implications with regard to Policy S.DH3 which relate to internal works to heritage assets separately in my decision.
38. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act requires that special attention be given to the desirability of preserving or enhancing the character and appearance of a conservation area. From the limited information before me, the special interest and significance of the public house largely derived from its historic interest and architectural features, as a traditional public house dating from the end of the last century.
39. The proposal relates to a material change of use not operational development. However, the appellant refers to two existing side doors and refurbishment of existing double doors behind a plywood panel. The appellant indicates that these doors are already existing and original to the property. However, the plans in this respect are not clear. The existing ground floor plan states in writing that the door which is on the corner of the White Church Lane and Manningtree Street will be unsealed.
40. There is a second panelled area further along Manningtree Street which is not shown as a door on the existing plan but is shown as a door on the proposed plan which would be an entrance to the refuse and cycle storage. Neither door space appears to be the size of double doors. Removing plywood panels over doors which have the same features as the rest of the front façade would not give rise to heritage concerns but the current plans do not provide clarity as to what is actually proposed. This is likely to be a matter that the parties could resolve with a discussion but I do not have sufficient information to reach a conclusion on this issue. For the reasons given, I am unable to conclude whether the proposal would preserve the character or appearance of heritage assets.

Conclusion

41. I am unable to assess whether the proposal has implications with regard to the heritage status of the building on the basis of the information before me. However, on all of the other main issues, I have found conflict with the development plan. There are no material considerations that justify determining the appeal other than in accordance with the development plan. The appeal is dismissed.

Appeal B

42. Appeal B is an enforcement appeal relating to the existing unauthorised HMO use which is made up of 13 bedrooms over 3 floors. Whilst the appeal was lodged on grounds (a) and (g), the effect of Section 118 of the Levelling Up and Regeneration Act 2023 is to bar an appeal under ground (a) where an enforcement notice was served within two years of the date on which a related application ceased to be under consideration. The appeal is therefore proceeding on ground (g) only as enforcement notice was issued on the 1 May 2024.

The Notice

43. The Inspector has a duty to put the notice in order irrespective of the grounds of appeal. The allegation relates to the material change of use from public house of 1st, 2nd and 3rd floors of the appeal building to an HMO. The upper floors were in use as ancillary residential accommodation to the public house which operated on the ground floor. The notice is limited to the upper floors of the public house. It is not necessary to state in the allegation what the existing use is but the material change of use but to provide clarity, the material change of use relates to part of the public house. I will delete the words 'from public house' and replace them with 'of part of the public house.' I will also add the word 'material' before change of use as a change of use has to be material to require planning permission. The amendments provide clarity and do not cause injustice.
44. Any requirement has to flow from the notice. There is a single requirement which includes cessation of the use of the property as a large HMO (Sui Generis) and returning the use back to a public house. However, a requirement cannot require the resumption of a previous use. The requirement does refer to cessation of the HMO use and that cessation would remedy the breach. Although the allegation relates to a large HMO (Sui Generis) it is clear that the intention of the wording is to cease all HMO use. I will therefore delete the requirement in full and replace it with 'Cease the use of the property as an HMO.'

The appeal under ground (g)

45. An appeal under ground (g) relates to the period for compliance with the notice which is 3 months. The appellant is asking for 12 months on the basis that the required notice for a tenant is a minimum of 2 months and that any challenge to that process is likely to take the courts 12 months to resolve. The completed Planning Contravention Notice provided names of 13 occupants and the dates of the commencement of tenancies with the earliest tenancy commencing in June 2022. However, it is speculative at this stage to assume that court proceedings will be required.
46. Whilst, I have no details of tenancy agreements, it will take some time for the current occupiers to look for new homes. I will therefore extend the period of compliance to 6 months which is an appropriate balance between the public interest in achieving compliance and the time needed to look for new accommodation.

Conclusion

47. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall correct and vary the enforcement notice prior to upholding it. The appeals on ground (g) succeeds to that extent.

E Griffin

INSPECTOR