



Appeal Decision

Site visit made on 5 August 2025

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th September 2025

Appeal Ref: APP/C5690/C/23/3333328

164 Perry Hill, London, SE6 4EZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr C Philippou, Stef and Philips Limited against an enforcement notice issued by the Council of the London Borough of Lewisham.
 - The notice was issued on 13 October 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission the change of use of the property to a House in Multiple Occupation (use class C4).
 - The requirements of the notice are to: (1) Cease the use of the property as a House in Multiple Occupation (HMO) (C4 use class); and (2) Remove from the property: (a) the ensuite bathrooms from all except one bedroom; (b) all sinks, cabinetry, and worktops from every bedroom in the property; and (3) Make good all damage resulting from the compliance with the requirements of Steps (1) and (2); and (4) Remove all materials, debris, waste and equipment resulting from compliance with Steps (1), (2) and (3) of this notice from the land.
 - The period for compliance with the requirements is 6 (six) months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) 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 corrected by the insertion of the word “material” before the word “change” in paragraph 3.
2. Subject to this 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 Act.

Application for costs

3. An application for costs was made by the Council of the London Borough of Lewisham against Mr C Philippou, Stef and Philips Limited. This application is the subject of a separate decision.

Preliminary Matters

4. The enforcement notice relates to a material change of use to a House in Multiple Occupation (HMO) within use class C4 (small HMO occupied by between three and six unrelated people). The allegation should therefore have stated “material change of use”, as this is the act of development as defined by statute. This can be corrected as it would not give rise to injustice to the parties.
5. The Lewisham Local Plan 2020-2040 (LP) was adopted in July 2025. Its policies supersede the policies of the Core Strategy Development Plan Document (2011), and the Development Management Local Plan (2014) referred to in the notice. Both parties had the opportunity to comment on the implications of this for the appeal.

6. The revised National Planning Policy Framework (the Framework) was published in December 2024. This does not raise any matters that require me to seek representations from the main parties in this case.

Ground (a) Appeal and the Deemed Planning Application

7. An appeal on ground (a) is that planning permission ought to be granted for what is alleged in the notice, that is the material change of use of the property to a HMO within use class C4.
8. The appellant submitted 'existing' and 'proposed' floor plans with the appeal. The latter show an alternative layout to the property. Section 177(1)(a) of the 1990 Act only allows the grant of planning permission in respect of matters stated in the notice as constituting a breach of planning control "whether in relation to the whole or any part of those matters". Whether the alternative scheme amounts to part of the matters, and may be permitted, is for the planning judgement of the decision maker.
9. In summary, the alternative layout proposes that one of the ground floor bedrooms be converted into a communal lounge so that there would be a total of five instead of six bedrooms. The changes are not significant in nature and scale, the number of occupiers would remain within use class C4 and the allegation in the notice would not change. I am therefore content that the alternative scheme is part of the matters stated in the enforcement notice. Furthermore, the Council has had the opportunity to comment on it, and I have taken the comments received into account. I shall return to the alternative scheme later.

Main Issues

10. The main issues in this case are the effect of the development on the supply of family housing; whether the development promotes sustainable means of travel and mitigates its effects on the surrounding highway network; and whether the standard of accommodation is acceptable.

Reasons

Supply of family housing

11. The appeal site is a two storey, mid terraced property located within a residential area characterised by rows of similar terraced and semi-detached dwellings. The site is subject to an Article 4 Direction that limits permitted development rights, including the change of use between use class C3 (dwellinghouse) and C4 (HMO). This means that planning permission is required for the use of the appeal property as a HMO in this instance.
12. LP Policies HO1 and HO2, amongst other things, set out the need for family housing units (3+ bedrooms) in the borough and seek to resist the net loss of housing unless it is suitably replaced. Prior to the unauthorised material change of use to a HMO, the property was a dwelling within use class C3 with three bedrooms and access to a large rear garden. It was therefore clearly suitable for occupation as a family dwelling. The unauthorised use has resulted in the loss of the family dwelling.
13. LP Policy HO8 states that proposals for small HMOs in use class C4 within any area covered by an Article 4 Direction will only be permitted where: a) The gross original internal floorspace of the original dwelling is 130m² or greater; and b) The requirements of Policy HO8 (A)(b-d) are satisfied. The emphasis on 'original' is

important here because the appeal property has been extended. In assessing the development against LP Policy HO8, I am therefore considering the original, rather than the extended, floorspace of the property. The evidence before me indicates that the original floorspace of the property is less than 130m² which is a further indication that it is unsuitable for conversion to a small HMO.

14. The appellant says that the family dwelling has not been lost and that it could revert back to such use at any time. However, that would not address the current harm arising from the change of use, and my allowing this appeal would authorise the HMO use which includes internal changes to the property to facilitate that use which have made it more difficult to convert it back in to use as a class C3 dwelling.
15. For the reasons given, I find that the development has resulted in the loss of a family dwelling, for which there is an identified need in the borough, and therefore an adverse effect on its housing supply. The development conflicts with LP Policies HO1, HO2 and HO8, the aims of which are set out above.

Sustainable travel

16. LP Policy HO8 requires HMOs to be appropriately located in areas that are well-connected to local services by walking, cycling and public transport, which also reflects the aims of LP Policy TR1.
17. The appeal site has a Public Transport Access Level (PTAL) of 2, which represents a low level of public transport connectivity. The appellant indicates that the PTAL rating is incorrect on the basis that the site is close to bus stops and within walking distance of rail stations. However, the railway stations are quite some distance away and the frequency of the services is unclear. Moreover, the PTAL takes into account service frequency and not just route availability, and it is a more reliable indicator of how accessible a site is. I find that the site is not well located relative to services, facilities and transport links regardless of its proximity to bus stops.
18. The Council considers that a legal agreement is required to secure the implementation of a car-free development given the parking situation on Perry Hill. However, LP Policy TR4 supports car-free development in places that are well connected to public transport. The area has a low level of accessibility to public transport. Moreover, car ownership among HMO residents is generally low and there is no substantive evidence to suggest that there is parking stress on this road or that any parking as a result of the development would result in obstruction to the road. I am therefore satisfied that a legal agreement to secure a car-free development is not required in this instance.
19. A further concern of the Council relates to cycle storage. The rear garden of the property is of sufficient size to accommodate bicycle storage provision. However, as it currently stands, the rear garden is only readily accessible from Bedrooms 2 and 3. It is unclear where cycle provision could be provided for the other occupiers of the property. As such, the appellant has not demonstrated that the development provides adequate cycle storage provision, contrary to London Plan Policy T5, which seeks the provision of adequate cycle parking facilities.
20. Overall, I conclude that the development does not adequately promote sustainable means of travel. Consequently, there is a conflict with LP Policies HO8 and TR1 and London Plan Policy T5, as set out above.

Standard of accommodation

21. LP Policy HO8 (A)(d) requires that HMOs are well-designed and provide high quality accommodation that satisfies the relevant standards for HMOs, including units that provide adequate functional living spaces and layouts.
22. The HMO currently contains six bedrooms, all of which are single occupancy. At ground floor level there are three bedrooms and a communal kitchen, two further bedrooms at first floor level, and a bedroom at second floor level within the extended roof space.
23. The kitchen has an area of 8.6m². It is centrally located within the building and consequently is a cramped and gloomy space with no windows to provide natural light, outlook or ventilation. It is not of sufficient size, particularly if all six occupiers wish to use the facilities at the same time. There is no separate communal dining area or lounge in which the occupiers can eat, relax and socialise, and a general lack of circulation space within the building. The communal space is therefore of inadequate size with insufficient circulation space for day to day living.
24. The Council says that two of the rooms appear to be undersized, with a haphazard and awkward layout, but it does not identify which rooms it is referring to. Each bedroom is provided with en-suite facilities and is served by a window with sufficient outlook and natural light. In my view, the bedrooms are sufficiently large for single occupancy and the layouts are functional. The Council says that it is unlikely the minimum floor to ceiling heights (2.5m) would be met given the utilisation of the loft. However, I observed that the floor to ceiling height within the second floor bedroom is adequate, and the other rooms in the property also have sufficient headroom.
25. Whilst there is a large garden to the rear of the property, only Bedrooms 2 and 3 have access to it. The remainder of the occupiers do not have direct access to this space. They would be able to access the garden through Bedrooms 2 and 3 or from the rear access track, but that would be unsatisfactory. There is also a front garden, but it is small and lacks privacy from the road, and is therefore unlikely to provide an adequate external amenity space for residents.
26. The Council also says that the development cannot meet the standard of M4(2) “accessible and adaptable dwellings”. However, there is insufficient evidence to enable me to reach a finding on this matter which has not, therefore, been determinative in this appeal.
27. Although the property benefits from a HMO licence, this operates under different standards to an application for planning permission, which falls to be considered against the relevant policies of the development plan and other material considerations. Therefore, the HMO licence does not alter my findings.
28. I conclude that the development fails to provide a high standard of accommodation for the occupiers. It therefore conflicts with LP Policies HO8 and QD8, London Plan Policy D6 and the Mayor of London's Housing SPG (2016) which, amongst other things, seek to ensure that housing, including HMOs, provide high quality accommodation with functional living spaces and layouts.

The Alternative Scheme

29. As outlined above, the alternative scheme would involve converting one of the ground floor bedrooms into a lounge and thereby reduce the number of bedrooms

and occupiers to five. Whilst this would address the shortcomings of the communal space in terms of size and enable access to the rear garden for all occupiers, it would not address my concerns regarding the adequacy of the kitchen facilities. Nor would it overcome the other harms identified relating to the loss of the family dwelling and poor level of public transport accessibility.

Conclusion on Ground (a) Appeal

30. The development results in the loss of a family dwelling, does not provide a good standard of accommodation for occupiers, and fails to promote sustainable travel. The appellant says that there is a need for HMOs in the borough, but there is no reason for me to believe that this outweighs the Council's needs relating to the supply of family housing, which the appeal development reduces. Nevertheless, the development does provide affordable living accommodation for the occupiers, to which I afford moderate weight. This does not, however, outweigh the harms that I have identified. The development conflicts with the development plan as a whole and no material considerations indicate that the decision should be taken otherwise than in accordance with this.
31. I am mindful that dismissing the appeal and upholding the notice will result in the loss of the occupiers' homes and interfere with their rights under Article 8 of the Human Rights Act which states that everyone has a right to respect for private and family life, their home and correspondence. However, this is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. I find that the interference is the minimum necessary and is proportionate having regard to the legitimate and well-established planning policy aims to provide good quality living conditions, protect the supply of housing and promote sustainable travel.
32. Therefore, the ground (a) appeal does not succeed and planning permission will be refused in respect of the appeal development and the alternative scheme.

Conclusion

33. For the above reasons, the appeal does not succeed and planning permission will not be granted. 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).

M Ollerenshaw

INSPECTOR