



Appeal Decision

Site visit made on 9 September 2025

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 September 2025

Appeal Ref: APP/G5750/C/23/3326629

70 Chestnut Avenue, Forest Gate, London E7 0JJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Jahangir Hussain against an enforcement notice issued by the Council of the London Borough of Newham.
 - The notice was issued on 15 June 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use to a Use Class C4 house in multiple occupation (HMO).
 - The requirements of the notice are: 1. Cease the use as a Use Class C4 house in multiple occupation. 2. Remove all fixtures and fittings that solely facilitate the use as a house in multiple occupation, including (but not limited to) all internal locks on bedroom doors and any additional mattresses and beds. 3. Remove from the site all debris arising from compliance with steps 1 and 2.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d) 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.
-

Decision

1. 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 Matter

2. My decision takes into account the revised National Planning Policy Framework (the Framework), which came into force during the course of the appeal.

Ground (d) appeal

3. The ground of appeal is that it was too late to take enforcement action against the breach specified in the enforcement notice. The burden is firmly on the appellant to show why their appeal should succeed on this ground, the relevant test of the evidence being on the balance of probability.
4. The appeal premises contains a mid-terrace residential building, with living accommodation arranged over two floor levels. There is a shared living room, shared kitchen and shared WC/shower room on the ground floor. A hallway and stairs lead to three bedrooms on the first floor. The notice attacks the material change of use of the premises to use as a small House in Multiple Occupation (HMO) in Class C4.¹
5. The effect of s171B(3) of the Act is that no enforcement action may be taken after the end of ten years beginning with the date of the breach. The appellant provided no evidence to show that the use as a small HMO had been continuous for the required period. Moreover, a previous enforcement notice issued in May 2019 attacked the mixed use of the premises as a brothel and short-term lets. In the

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended).

absence of any clear and compelling evidence to suggest otherwise, this points towards the HMO use having only commenced sometime after the mixed use ceased. That being the case, the use as a small HMO cannot have been continuous for the required period on the date the notice was issued.

6. Therefore, on the balance of probability it is not too late to take enforcement action against the use as a small HMO. The ground (d) appeal fails.

Ground (a) appeal

Main Issues

7. The main issues in this ground of appeal are:

- Whether the use as a small HMO contributes to a mixed and balanced community, having regard to the effect on the supply of family housing in the Borough.
- Whether suitable living conditions are provided for existing and future occupiers of the premises, having regard to living space, noise and disturbance and outdoor amenity space.
- The effect on the living conditions of occupiers of neighbouring residential property, having regard to noise and disturbance.

Reasons

Mixed and balanced community

8. Policy H4 of the Newham Local Plan (NLP) states that the Council will specifically protect 3 bed and 4 plus bedroom family housing. The policy justification explains that projected growth in the number of households over the NLP period up to 2033 effectively means there should be no (net) reduction in the housing stock, and a key element of the NLP is the very clear presumption against the loss of residential floorspace, with particular emphasis on protecting family housing. Sufficient capacity is expected for HMOs through purpose-built new build, conversion of non-residential uses and reuse of premises above shops in town centres. NLP Policy S6 requires new development to address strategic criteria which include stabilising the population, with a greater focus on improving housing quality, protecting and increasing family housing and restricting HMOs.
9. The support for safeguarding family-sized accommodation is also reflected in NLP policies H1, H3 and S1. These and the foregoing policies are consistent with the Framework, which advises that planning policies should reflect the housing needs of different groups in the community, including families with children. Housing requirements and household growth figures set out in the Mayor of London's Housing Supplementary Planning Guidance (SPG) support the higher demand for family-sized dwellings over smaller residential units.
10. The available evidence indicates that the lawful use of the premises is as a single dwelling. The premises is clearly suitable for occupation by a family, having regard to the number of bedrooms provided. The use as a small HMO prevents the premises from being occupied by a family where an identified demand for family-sized housing exists. Whilst the supply of family sized dwellings might well remain high in the locality, that has little bearing on the demand for family housing in the Borough as a whole. NLP policies safeguard family housing throughout the Borough, not just parts where there is a high concentration of HMOs.
11. Therefore, the use has unacceptably and harmfully eroded the supply of family housing in the Borough and fails to contribute to a mixed and balanced community. This is in conflict with NLP Policies H1, H3, H4, S1 and S6, which amongst other things seek to resist the loss of family-sized homes, to achieve the aims identified

above. It also conflicts with NLP Policy SP2 which requires new development to, amongst other things, improve housing quality including through better housing mix, as well as Policy GG4 of the London Plan (LP) which amongst other things seeks to create mixed and inclusive communities, with good quality homes that meet high standards of design and provide for identified needs. However, there is no conflict with NLP Policies SP1 and SP3 which concern place-making and urban design, respectively. The Council did not explain the relevance of these or the other policies referred to in the following main issues where no conflict is identified.

Living conditions-existing and future occupiers of the premises

12. Use as a small HMO is materially different in character to use as a single dwelling. Occupiers of an HMO generally lead largely separate daily lives from one another. It is unusual for example for such occupiers to share common connections or relationships or have similar work patterns or leisure interests. Consequently, occupiers of an 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 and at different times throughout the day. This is in contrast to a single dwelling, where occupiers are more likely to share common activities and make trips around the same time. As occupiers of an HMO are each likely to attract their own visitors, including friends and family members as well as deliveries, such use can also give rise to a considerably greater number of comings and goings, compared to use as a single dwelling.
13. My understanding is that the premises is currently occupied by three unrelated persons, with four people having resided there previously. Even so, as a small HMO there could be up to six persons residing at the premises. The shared living room could be used as another bedroom, as was the case during the Council's most recent visit. Also, two of the bedrooms are of a size which could allow for occupation by more than one person. A planning condition restricting the number of occupiers to less than six is unlikely to satisfy the Framework tests of enforceability and reasonableness.
14. Without a shared living room or similar space, occupiers would have little opportunity to consume food, relax, socialise and receive visits from family and friends at the premises other than in the bedrooms. It would also largely confine interactions between occupiers to more functional internal spaces, such as the shared kitchen. There is little room available in the kitchen other than for preparing and cooking food along with washing and drying items of clothing and bedding. Accordingly, use of the living room as another bedroom would contribute to occupiers' experiencing a restrictive living environment at the premises.
15. The bedrooms adjoin the shared hallway and ground floor shared facilities. Given the likely scale of activity in shared spaces arising from the use, together with the increase in the number and frequency of comings and goings, there is a good chance of occupiers of the premises experiencing significant incidences of noise and disturbance in their bedrooms at times. There is no suggestion that sound insulation has been provided to mitigate the effects of noise and disturbance on occupiers. The foregoing does not contribute positively to the provision of a comfortable and relatively peaceful living environment at the premises.
16. Furthermore, occupiers of the premises have no access to a private garden. As a result, there is little opportunity for them to undertake the sort of activities that are typically associated with such a space, including informal relaxation and drying washing. The absence of a suitably sized private outdoor amenity space also contributes to the sense of a restrictive living environment. Whilst there might be an HMO licence for the premises, that does not equate to suitable living conditions having been provided for occupiers from a planning perspective. Whether an HMO licence should be issued is governed by separate legislation with differing

objectives including the standard of shared amenities, safety and management practices.

17. Therefore, the use as a small HMO does not provide suitable living conditions for existing and future occupiers of the premises. This is in conflict with LP Policy D6 which requires new housing development to, amongst other things, have comfortable and functional layouts that are fit for purpose and to address the qualitative design aspects in Table 3.2, including by providing sufficient amenity space. It is also in conflict with the following NLP Policies-SP2 which amongst other things seeks to improve housing quality, SP3 which requires new development to address strategic principles including contributing to the creation of high-quality living accommodation, as well as H1 which amongst other things requires the provision of adequate external private open space. Moreover, the use conflicts with NLP Policy SP8 which expects development to promote neighbourliness in addressing the need to, amongst other things, provide appropriate communal and private amenity spaces (e.g. bedrooms and places of retreat) in multiple-user buildings including HMOs.
18. There is no conflict in this respect however with LP Policy D4 which concerns the strategy for achieving good design, or with NLP Policies-S1, SP1 and H4, which concern, respectively, the spatial strategy and strategic framework, place-making and protecting and re-shaping the existing housing stock.

Living conditions-occupiers of neighbouring residential property

19. The premises is located on a residential street with limited levels of through traffic, in an established residential area. Nearby properties are generally similar in size and as far as I could ascertain, mostly in single family occupancy. As a result, the surroundings exhibit a quiet residential character where occupiers of neighbouring residential property could reasonably expect to enjoy relatively good levels of peace and tranquillity in their homes and gardens.
20. Increased activity at the premises associated with the use, along with the increased number and frequency of comings and goings, is likely to contribute to greater incidences of noise and disturbance being experienced by neighbouring residential occupiers compared to use as a single dwelling. The character of the use and the associated additional incidences of noise and disturbance is markedly at odds with the otherwise quiet residential context, being typical of a more urbanised setting. Also, in the absence of details of any sound insulation there is little assurance that the effects of additional noise and disturbance from increased activity at the premises on occupiers of the neighbouring attached properties is adequately mitigated.
21. The absence of other HMOs in the vicinity is not a sound reason for perpetuating noise and disturbance associated with the use. Neither does the prospect of the HMO licence being revoked in the event of future complaints provide a sufficient safeguard for neighbouring occupiers' living conditions, as licencing decisions are not based on planning considerations.
22. Consequently, the use as a small HMO has an adverse effect on the living conditions of occupiers of neighbouring residential property. This is in conflict with LP Policy D14 which requires new development to, amongst other things, avoid significant adverse noise impacts on health and quality of life, including by mitigating and minimising the existing and potential adverse impacts of noise. It is also in conflict with NLP Policy SP8 which expects new development to achieve good neighbourliness and fairness by avoiding negative and maximising positive social, environmental and design impacts for neighbours on and off the site and to avoid unacceptable exposure to noise. There is no conflict in this respect however with NLP Policies SP2 and SP3.

Other Matters

23. The SPG stresses the important role played by HMOs in supporting labour market flexibility and providing affordable privately rented living accommodation in the capital. The use contributes to the mix of different types of housing and promotes choice, also contributing to meeting demand for such accommodation in the Borough and London generally. This weighs moderately in favour of granting permission, having regard to the small scale of the use.

Conclusion-Ground (a) appeal

24. The use as a small HMO has unacceptably and harmfully eroded the supply of family housing in the Borough and fails to contribute to a mixed and balanced community, suitable living conditions are not provided for existing and future occupiers of the premises and there is unacceptable harm to the living conditions of occupiers of neighbouring residential property, 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 (g) appeal

25. The ground of appeal is that the time allowed for complying with the notice requirements is too short.
26. Few details of the length and terms of any tenancies or of notice periods required to be given to tenants were supplied. There is little firm evidence to indicate that the six-month period specified would give the appellant insufficient time to serve notices to quit where required or that tenants would subsequently have difficulty in searching for and securing suitable alternative living accommodation, including raising any necessary funds to lay down a deposit.
27. The remedial works would be a small-scale and straightforward task for a suitably experienced property maintenance contractor. There are in all likelihood a significant number of contractors who would be available to undertake the works given a reasonably short period of notice. The works are unlikely to take more than a few days at most to complete.
28. Accordingly, the compliance period specified is not too short and is reasonable. There would be sufficient time for tenants to search for and secure alternative accommodation and for the subsequent carrying out of the works. There is an appropriate balance 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 also fails.

Conclusion

29. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice 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