



Appeal Decision

Site visit made on 22 July 2025

by Richard S Jones BA (Hons), BTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2025

Appeal Ref: APP/G5750/C/23/3334713

Land at 39 Manor Park Road, Manor Park, London, E12 5AB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Ms A Begum (Nationwide Express Limited) against an enforcement notice issued by the Council of the London Borough of Newham.
- The notice was issued on 6 November 2023.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use to a Sui Generis house in multiple occupation (HMO).
- The requirements of the notice are to:
 1. Cease the use as a Sui Generis house in multiple occupation.
 2. Remove from the property all but one kitchen.
 3. Remove from the property any internal locks and numbering on bedroom doors.
 4. Remove from the site all debris arising from compliance with the above steps.
- 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.

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 Matters

2. The appellant has sought to draw my attention to the plan attached to the enforcement notice, which does not show that the side extension is set back from the original main front elevation. Nevertheless, the enforcement notice address is consistent with the plan, and it is not argued that the plan does not properly identify the boundaries of the land. There is therefore no question of the notice being a nullity or invalid on the basis of the plan.
3. I note the appellant's concerns that letters of support were not uploaded to the Council's website. However, the appeal before me is made against an enforcement notice, rather than the previously refused planning application¹. Nevertheless, for the avoidance of doubt, I have considered all submitted evidence afresh, including representations made in support of the use.
4. I further note the appellant's preference to have submitted a new application in an attempt to address the Council's concerns, but the Council reasonably issued the

¹ Ref: 23/01932/FUL

enforcement notice following the refusal of planning permission for the change of use.

The Appeal on Ground (a)

Main Issues

5. The main issues are:

- the effect of the development on the Borough's stock of family housing;
- whether the property provides acceptable living conditions for its occupants, with particular regard to the provision of internal living space; and
- the effect of the development on the living conditions of occupants of neighbouring properties with particular regard to noise and disturbance.

Reasons

Housing Stock

6. The appeal relates to an extended, two storey, semi-detached house, which has been subject to a material change of use to a sui generis HMO.
7. The strategic criteria of Policy S6 of the Newham Local Plan 2018 (NLP) include protecting and increasing family housing and restricting HMOs and encouraging de-conversion of family-sized Victorian and Edwardian homes that have been subdivided in the past. NLP Policy H4 similarly states that the Council will specifically protect 3 and 4+ bed family housing.
8. The appellant argues that there is no likelihood of the property being let as a single-family house and that such a use "has recently been rejected by professional letting agents and estate agents...". In that regard, I note the representation from agents referring to the property as having 10 bedrooms and the unlikelihood of demand from a single family for the size of the property. However, the existing number of bedrooms and configuration reflects its current use. On the ground floor, there is no lounge or dining room and a relatively small kitchen. Some of the bedrooms are also small and not fit for purpose. The number of bedrooms would therefore be drastically reduced by a layout conforming to a typical single-family dwelling.
9. The justification to NLP Policy H4 also explains, contrary to the appellant's position, that family dwellings have the highest demand and that it is clear from analysis that Newham will fail to provide enough family housing if it does not both increase the rate of new provision and hold onto existing family stock.
10. Moreover, presumably a decision was made to enlarge the property to its current size, even though its lawful use is a single-family dwelling. I appreciate that commercially it may be more lucrative to let as a large HMO, so advice to a landlord from a letting agent is going to reflect that. Also, I have no evidence of actual marketing for the appeal property as a single-family dwelling, or financial evidence which demonstrates that the use is unviable on that basis, thereby limiting the weight I can attribute to those related submissions, compared to the opposite position of the evidence-based development plan policies.

11. Notwithstanding the intention of NLP Policy H4 to specifically protect family housing, the policy justification sets out circumstances where subdivision or conversion can have multiple benefits, or more desirable outcomes than the status quo. To address this, the policy includes criteria that would allow subdivision or conversion of existing units in specified circumstances. However, the appeal property would not meet the locational criteria, and, for the reasons explained below, would not deliver high quality conventional housing.
12. The appellant has sought to draw my attention to appeal decisions relating to No 42 Disraeli Road². However, those decisions are concerned with the change of use of a dwelling to Class C2 sheltered accommodation, for which a need was demonstrated. More significantly, the Inspector noted that NLP Policy H4 specifically seeks to protect from the loss of family housing through conversions to flats and HMOs, and that the use of the property as sheltered accommodation did not breach that specific policy aim. In contrast, the development in this case is for a HMO, so is clearly in breach of that policy aim. The referenced appeal decisions do not therefore serve as precedent to that which is before me, which I have determined on its own individual merits.
13. I note the reference to the use of No 42 as a hotel, but that is a matter for the Council, rather than this appeal.
14. The appellant seeks to highlight that a Senior Environmental Health Officer advised that the best use for the property would be as a HMO. Be that as it may, planning falls under a different regime, and the current use for such purposes results in the loss of family housing and undermines the Council's ability to stabilise the community and reduce population churn, contrary to NLP Policies H1, H3, H4 and S1 and London Plan Policy GG4. Those policies support, amongst other things, the provision and protection of family housing.
15. The appellant states that they are willing to restrict accommodation to occupants which are referred by the Council, and not to advertise on the open market. It is argued that would ensure provision of accommodation for those in most need and that considerable weight should be afforded to that benefit. However, it is not shown that the need for HMO accommodation on that basis outweighs the need for family sized housing, as identified in the adopted development plan. Moreover, for the reasons explained below, the accommodation does not provide acceptable living conditions for its occupants, and the use is more likely to harm the living conditions of neighbouring occupants, compared to use as a single-family dwelling.
16. The Council in its corresponding reason for issuing the enforcement notice, also cites conflict with NLP Policies SP1 (Borough-wide place-making), SP2 (healthy neighbourhoods) and SP3 (quality urban design within places). However, I find those policies to have limited relevance to this main issue.

Living conditions of occupants

17. The property is configured to provide four bedrooms on the ground floor, five on the first floor and one at roof level. Shared facilities on the ground floor comprise a

² Appeal references: APP/G5750/C/15/3136650 and APP/G5750/W/15/3135084

kitchen, bathroom and shower room. There is also a shared kitchen and shower room on the first floor.

18. In general terms the Council's position is that the current layout of the building constrains the size, shape and utility of the rooms, limiting the space available for accommodating both furniture and circulation. Its concerns particularly focus on the smaller bedroom at the front of the ground floor, and the rear facing bedroom on the first floor (marked bedroom 7 on the plans), which it says are of very limited size and do not meet the required space standards.
19. At the time of my site visit, the front ground floor bedroom accommodated a wardrobe and a double bed, which could only be accessed from one side due to the size of the room, resulting in limited functionality, circulation space and cramped living conditions, particularly if occupied by two people.
20. The rear facing bedroom at first floor level is annotated as 7.5m² on the plans. At the time of my visit, it accommodated a double bed, wardrobe, small fridge, microwave and chest of draws, creating a very cramped and highly compromised living space with limited circulation, poor functionality and little opportunity for meaningful storage. The living conditions harms arising would be significantly exacerbated if the room were occupied by two people.
21. Moreover, the adjoining room, marked as a bathroom on the plans, was also being used as a bedroom, with a queen or double sized bed, despite an annotated floorspace of only 6.3m². In addition, I saw that the first floor bedroom positioned above the front entrance is very small and narrow (the plans show a floor area of just 6.2m²), resulting in an unduly cramped and poor living space for occupants.
22. I also saw that much of the floor space of the roof level bedroom (which was not being used at the time of my site visit), is positioned under the main roof slope, so it was only possible to properly stand up in the area along the line of the ridge. Elsewhere, occupants would need to constantly bend down, resulting in cramped, uncomfortable and oppressive living space with very limited functionality.
23. Given the lack of a communal lounge, the HMO bedrooms form the main living space for occupants. Those highlighted are inadequate both in terms of their size, function and flexibility. The harm arising would not therefore be resolved by precluding use of one of the bedrooms.
24. There is sufficient separation between the entrance path to the front door and the ground floor front window to avoid undue overlooking and loss of privacy to occupants of that room. Internally, the door to the bedroom is solid so there is no potential for loss of privacy there. Given its position close to the main front entrance, it is likely that occupants would experience noise and disturbance from other occupants as they would have to pass that bedroom when entering or exiting property. That is not an uncommon scenario but given the number of other occupants, there is greater potential for noise and disturbance to the occupant(s) of that front bedroom, although the harm arising would not justify withholding planning permission on that issue alone.
25. Nevertheless, for the reasons explained, I find that the property is configured in a manner which is harmful to the living conditions of occupants, contrary to London Plan Policy D6 and NLP Policies SP2, H1 and H4. Those policies state, amongst

other things, that housing development should be of high quality design and provide adequately-sized rooms with comfortable and functional layouts which are fit for purpose and meet the needs of Londoners.

26. Again, the Council cite conflict with NLP Policies SP1 and SP3, as well as London Plan Policy D4 (delivering good design). However, I find those policies to have limited relevance to this main issue.

Living conditions of neighbouring occupants

27. The use of the property for a nine or ten bedroom HMO with potential double occupancy in some rooms, amounts to a significant intensification in its use, compared to that which could normally be expected from a single family dwellinghouse, even a large one. Whereas family occupants are more likely to carry out day-to-day activities together, a large HMO such as this, with a significant number of unconnected residents, is likely to result in very differing patterns of usage and behaviour at different times of the day. That in turn will likely generate significantly more noise and disturbance as individuals come and go separately from one another for work, shopping and other day-to-day activities, compared to a single-family dwellinghouse.
28. Such a high number of unconnected individuals living within the property will also likely generate a greater number of visitors and deliveries to the property, along with the associated noise and disturbance. Moreover, the appeal property is located in a small cul-de-sac, where such an intensified use is more likely to be keenly felt.
29. I appreciate the appellant's good intentions over the management of the property and recognise that the imposition of an appropriate management plan would assist in mitigating the harm. However, with such a high number of occupants, it is somewhat inevitable that the use will result in noise and general disturbance to neighbouring occupants, just from everyday activities and comings and goings, at various times of the day.
30. I note that the appellant contends that there have been no reported problems over the behaviour of occupants, but there is an objection from the adjoining occupiers who refer to 10-15 people (the appellant says 10) constantly creating noise throughout the day and night due to their differing schedules. They submit that noise and commotion, from people they have never seen before, is impossible to live with, negatively impacting on their personal and work lives.
31. Whilst there are submissions in support of the development, including that of a police officer who lives in the area, the residents which are most likely to be affected are those which live in the adjoining property, and they, as noted, raise valid concerns and objections over the use.
32. I have noted the appellant's responses and views on those objections and his submission that the neighbour has never complained about noise or any other matter, and that little weight should be afforded to the concerns expressed. Nevertheless, I find such an intensive use of the property is likely to have unacceptable effects on the adjoining occupants through noise and disturbance, whether the current occupiers have objected or not. Moreover, the effect on future occupiers must also be considered.

33. I appreciate that the accommodation may not be intended for short stay holiday or business lettings. Nevertheless, the above identified characteristics of the HMO use would remain and would not likely materially change even if occupants are restricted to referrals from the Council, regardless of whether that be secured by condition or s106 obligation (notwithstanding that there is no such legal agreement before me).
34. I understand that the appellant seeks to emphasise a limited turnover of residents relative to a hotel or bed and breakfast, or even a typical HMO. However, the likely lawful baseline comparison is none of those, but rather a single-family dwellinghouse. Compared to that a HMO, by its very nature will provide a more transient form of accommodation and a higher turnover of occupants.
35. Despite the appellant's arguments to the contrary, compared to a letting for a single-family dwelling, the use is much more likely to result in unacceptable harm to the living conditions of neighbouring residents through noise and disturbance, contrary to London Plan Policy D14 and NLP Policies SP2 and SP8. Those policies state, amongst other things, that all development is expected to achieve good neighbourliness and fairness from the outset.
36. The Council cite conflict with NLP Policy SP3, but I find that policy to have limited relevance to this main issue.

Other Matters and Conclusion

37. The appellant has requested that I consider how occupancy may be adjusted to make the development acceptable. In principle, notwithstanding any enforceability difficulties, precluding through condition the use of the rooms which are substandard in size and reducing the number of residents would address the internal living conditions harms and lessen the potential for harm to the living conditions of neighbouring residents through lesser occupancy. However, the use would still result in the loss of family housing, contrary to the above policies.
38. I appreciate that the site benefits from a sustainable location, but that benefit would similarly apply to a single-family dwelling.
39. The property is situated within the Durham Road Conservation Area. I therefore have a statutory duty under s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
40. The enforcement notice is concerned with the use of the property rather than any physical change to the building. Nevertheless, whilst I recognise that poorly maintained homes and poor refuse and garden management can arise regardless of the tenure of a property, those are recognised issues associated with HMOs, which by their very nature, provide a more transient form of accommodation where occupants are less likely to be actively engaged in the community and to care in the same way about the appearance of the property and its surroundings, compared to occupants of single-family dwellings.
41. That is reflected in the objection received from neighbouring occupants, which is accompanied by photographs showing bins overflowing onto the pavement outside the appeal property and strewn rubbish in an unkempt garden. The appellant

asserts those photographed are not the appeal site wheelie bins, which are larger. Photographs are provided to that end. However, even if those shown directly outside the appeal property belong to a different house, another photograph shows three wheelie bins positioned inside the appeal property, on the hardstanding area. That said, I acknowledge the appellant's photographs show that waste issues in the area are not restricted to the appeal site.

42. In any event, I recognise that waste generated from the site may in principle be adequately mitigated through the implementation of an agreed management plan. On that basis, the development would have a neutral effect on the conservation area.
43. I note the appellant's reference to the quality of the front paving at a neighbouring property and her views that repairs to the wall between Nos 39 and 41 do not meet conservation area requirements. Representation made also refers to the crossover and forecourt parking at the appeal property. However, those matters are beyond the scope of this appeal, and I make no comment on them.
44. I further note the fire safety concerns raised, but it is not a matter for me to speculate on the cause of the fire that occurred in 2022. Moreover, the courts have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests, such as the impact of a development on the value of a neighbouring property, cannot be a material consideration.
45. I appreciate the letter of support from a serving police officer on the basis that CCTV is installed to help reduce crime and antisocial behaviour in the area. I similarly note the support for the earlier planning application because of purported crime in the area and the benefits of proposed CCTV and a resident caretaker. Whilst any reduction in crime should of course be welcomed, it is unlikely that a large HMO with CCTV and a caretaker, would make such a difference that it would outweigh the above explained harms and associated policy conflicts. I also see no reason why the provision of CCTV should have to rely on granting permission for a large HMO use, and why the same could not be installed on a single-family dwelling. I am also mindful that many issues raised are matters for the police.
46. I understand the security concerns expressed by neighbouring residents, but I have no evidence of any incidences of criminal or anti-social behaviour by occupants of the appeal property.
47. The appellant refers to the support of a local councillor who lives in the area and states that it would have been useful to have members views before a decision was reached because if Committee had approved the use, that would have avoided the need for the appeal. However, the Council's scheme of delegation is not a matter for this appeal, which in any case is made against the enforcement notice, rather than the previous planning application.
48. The appellant argues that policy should not be applied when it is inappropriate, just for the sake of following procedure. However, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise³.

³ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990

49. In this case, for the reasons given above, I conclude that the material change of use is contrary to the development plan as a whole, and that material considerations do not indicate that the appeal should be determined otherwise than in accordance with the development plan. The ground (a) appeal should not therefore 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.

The Appeal on Ground (f)

50. An appeal on ground (f) is that the requirements of the enforcement notice are excessive to remedy the breach of planning control or the injury to amenity caused by the breach.
51. The breach in this case is the material change of use to a sui generis HMO. The requirements of the notice are to cease that use, remove from the property all but one kitchen, any internal locks and numbering on bedroom doors, and remove from the site all debris arising from compliance with those steps. The purpose of the notice is therefore to remedy the breach of planning control. To that end, the appellant has not shown that there are any lesser steps that would achieve that purpose.
52. As explained under ground (a), the appellant has requested that I consider how occupancy may be adjusted to make the use acceptable. However, I have found that would not resolve the loss of a family home and the resultant development plan conflict. Accordingly, it would not be appropriate for me to vary the requirements to that end or to defer the level of occupancy to be agreed by the Council.
53. I find that the requirements of the notice logically follow from the allegation and are not excessive but are necessary to remedy the breach. The appeal on ground (f) fails.

The Appeal on Ground (g)

54. The ground (g) appeal is that the six months given to comply with the notice is too short.
55. The appellant argues that it will take time to re-house the occupants using legal process which could extend to a year or sometimes significantly longer, depending on due process and difficulties outside her control. She states that she would not be permitted to vacate the premises without following proper procedures, so would be unable to comply with the notice within the timescale specified.
56. However, no evidence is provided of the notice period required to be given to occupants. Although, I am mindful that they would need to leave the property in advance of removing the facilitating works, thereby shortening the available notice period and the time for them to find alternative accommodation, the six month period would strike a reasonable and proportionate balance between any difficulties the appellant and tenants may encounter, and the public interest in this case.

57. Moreover, the Council draw attention to the powers afforded to it under s173A(1)(b) of the 1990 Act to extend any period for compliance, should that be appropriate.

58. The appeal on ground (g) fails.

Richard S Jones

INSPECTOR