



Appeal Decision

Site visit made on 7 August 2025

by **C Rafferty LLB(Hons), Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 29 October 2025

Appeal Ref: APP/T5150/C/23/3329400

61 Monks Park, Wembley HA9 6JF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Przemyslaw Mroz (Accommodation Solutions [SW12] LTD) against an enforcement notice issued by the Council of the London Borough of Brent.
- The notice was issued on 14 August 2023.
- The breach of planning control as alleged in the notice is without planning permission the material change of use of the premises to a House in Multiple Occupation (HMO), and without planning permission, the erection of a dwelling in the rear garden of the premises, and without planning permission the erection of a part single part double storey rear extension, loft conversion with rear dormer, canopy extension linking the single storey rear extension with the single storey rear outbuilding at the premises.
- The requirements of the notice are to:
 - STEP 1 Cease the use of the premises as a House in Multiple Occupation (HMO).
 - STEP 2 Remove all internal partitions, items, materials and debris associated with the unauthorised change of use, including the removal of all kitchens, en-suite bathrooms/shower rooms and toilets, except those shown in Plan A attached to this notice.
 - STEP 3 Restore the internal configuration to the original layout before the unauthorised change of use took place, as shown in Plan A attached to this notice. For the avoidance of doubt, this should include a kitchen/dining, living room and hall on the ground floor, bedrooms and a bathroom on the first floor.
 - STEP 4 Demolish the dwelling in the rear garden of the premises.
 - STEP 5 Remove all items and debris, arising from compliance with Step 4, and remove all materials associated with the unauthorised development from the premises.
 - STEP 6 Demolish the unauthorised part single part double storey rear extension, loft conversion with rear dormer, canopy extension linking the part single storey rear extension with the single storey rear outbuilding, and single storey rear outbuilding at the premises.
 - STEP 7 Remove all items and debris, arising from compliance with Step 6, and remove all materials associated with the unauthorised development from the premises.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (b) 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. It is directed that the enforcement notice is corrected by the removal of the word “outbuilding” from Schedules 2 and 4 of the notice and its substitution with the word “dwelling”.
2. Subject to the corrections, 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

3. The appeal was brought on ground (a) only. However, arguments made in the appeal submission amounted to an appeal on grounds (b) and (c), such that the appeal has proceeded on these grounds. The comments of the main parties were sought on the ground (b) appeal only.
4. I was unable to gain access to one of the rooms during my visit. Nevertheless, I am satisfied on the basis of my on-site observations and the evidence before me that I can adequately assess the appeal.

Appeal on ground (b)

5. An appeal on ground (b) is brought on the basis that the alleged breach of planning control stated in the notice has not occurred as a matter of fact. The onus lies with the appellant and the relevant test is the balance of probabilities.
6. In this case, the notice refers to the building in the rear garden of the appeal site as both an outbuilding and a dwelling. However, the appellant contends that it is not a separate dwelling, but an outbuilding for purposes incidental to the appeal property. I observed the building on my visit. Internally it comprises a sizeable open plan space with a separate room containing a toilet, shower, and sink, and was in use for the storage of bicycles and personal items.
7. However, the matter before me is what existed at the time that the enforcement notice was issued. There is no dispute between the parties that the separate shower room facilities were in place at the time the notice was issued. While the appellant suggests that these were for convenience while the building was in use as an office, their presence nevertheless provides the building with facilities that are considered primary, rather than incidental to the appeal property. In addition, although the appellant states that it is a coincidence, it remains that the building is accessible via a separate alleyway such that it is not necessary to go via the appeal property to access and enter it.
8. There is no evidence, either before me or observed on site, of any cooking facilities in the building, such that it may not have had all facilities required for independent occupation at the time the notice was issued. However, while I did not observe anything to suggest cooking facilities had been removed, there are facilities, such as microwaves, that could easily have been removed without trace. In any event, there is nothing substantive from the appellant to indicate that the building did not have all necessary facilities for independent occupation when the notice was issued, which has not been fully addressed in the evidence.
9. In the absence of any compelling evidence that the building did not contain cooking facilities, and taking my above observations together with the size of the open plan space that could comfortably accommodate furniture for day to day living, I find that, on the balance of probabilities, the building was capable of being used as an independent dwelling at the time the notice was issued.
10. However, the fact that the building may have been physically capable of supporting independent living accommodation does not mean that it has been. The issue is whether, as a matter of fact and degree, the use of the outbuilding has resulted in the creation of a separate planning unit. In this regard, the onus of proof is on the appellant. They indicate that the building was used as a home office, and that

regular movement to and from the building was due to this and its use for storage, rather than showing independent occupation. However, there is little evidence to support this claim. Although what matters is what existed at the time the notice was issued, there was nothing notable in the building during my visit to suggest an office use.

11. The appellant's arguments do not provide substantive or conclusive evidence of the building's use at the time that the notice was issued. I cannot find that it is sufficiently precise and unambiguous or that it discharges the onus of proof. I therefore conclude, on the balance of probabilities, that the erection of a dwelling in the rear garden of the premises without planning permission, as alleged in the notice, has occurred as a matter of fact.
12. The appeal on ground (b) therefore fails. As a result, I will correct the allegation and requirements of the notice insofar as they refer to an "outbuilding" at the site to refer to a "dwelling". I can make this correction without injustice to the main parties.

Appeal on ground (c)

13. An appeal on ground (c) is brought on the basis that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, that those matters do not constitute a breach of planning control. The onus is on the appellant to make their case on the balance of probabilities.
14. The appellant contends that permitted development rights and granted planning permissions exist in respect of various elements of the development. However, no substantive evidence in this regard has been produced as part of this appeal such that the appellant's case has not been proved on the balance of probabilities.
15. The appeal on ground (c) therefore fails.

Appeal on ground (a)

16. An appeal on ground (a) is brought on the basis that planning permission ought to be granted for the breach of planning control stated in the notice. Where an appeal on ground (a) is duly made, an application for planning permission is deemed to have been made.

Main Issues

17. The main issues are: whether the use of the property as a House in Multiple Occupancy (HMO) has resulted in the loss of a family dwelling; the effect of the development on the living conditions of occupiers of neighbouring properties with regard to parking, noise and disturbance, outlook, and light; whether the accommodation provided is of an appropriate standard; the effect of the development on the character of the area; and the effect of the development on flood risk.

Loss of a family sized dwelling

18. The appeal site comprises a property on Monks Park, in a largely residential setting. The appellant does not dispute that the property is currently in use as a HMO, with seven rooms allocated for occupation as such.
19. Policy BH11 of the Brent Local Plan 2022 (the BLP) states that the conversion of a family sized house, being a house of three bedrooms or more, to two or more

dwelling will only be permitted if: the existing house is 130sqm or more; the conversion results in at least a three bedroom dwelling, preferably with direct access to a garden; and it is in an area of PTAL 3 or above.

20. Submitted plans show the appeal property prior to its current configuration would classify it as a family dwelling for the purposes of Policy BH11. It is clear from both the parties' submissions and my site visit that the development has not resulted in at least a three bedroom, but in a seven bedroom HMO, six of which I observed to have a double bed. The Council further states that the property is 91sqm and located in an area with a PTAL rating of 1b. These have not been disputed by the appellant. Accordingly the conversion of the appeal property as a result of the development is contrary to Policy BH11.
21. Policy BH7 of the BLP states that proposals for non-self-contained or self-contained residential accommodation with shared facilities will be supported provided a number of tests are met, including when the premises is located in an area with good access to public transport and other amenities, including shops within 400m. I noted during my visit that the appeal property is not located in an area with good access to shops, with high streets some distance above 400m away from the site.
22. For the reasons given, the development has resulted in the loss of a family sized dwelling. As such, it fails to comply with Policies DMP1, BH7, and BH11 of the BLP and the provisions of the National Planning Policy Framework (the Framework) insofar as they seek to ensure the development is of a use that complements the locality and that family sized housing is maintained in the area.

Character and appearance

23. The development has resulted in the appeal site reading as overdeveloped and cramped. The combination of the scale and variety of built form to the rear fails to reflect or respect the character or proportions of the appeal property, and is readily visible to occupiers of neighbouring dwellings.
24. At the upper floors of the property, the flat-roofed, sizeable rear dormer window is experienced in combination with the first floor rear extension, providing considerable projecting elements and features that fail to successfully integrate from a visual perspective. The pitched roof of the first floor extension reads as incongruous in context and, combined with the dormer above, reduces the overall legibility of the rear façade and creates a disjointed feel to the property.
25. At ground floor level to the rear, the single storey extension, canopy, and single storey dwelling all combine to create a sizeable expanse of connected built form that dominates the rear garden and appears out of place in the immediate surrounds. While the Council refers to guidance relating to outbuildings, as can be seen from my conclusions above, the single storey building in the rear garden is a dwelling which, due to its rear placement, fails to respect the prevailing pattern and placement of development in the vicinity.
26. In addition, the front outdoor space incorporates limited soft landscaping. Policy BT2 of the BLP requires a minimum of 50% of forecourts to be covered in soft landscaping to improve natural drainage and reduce the visual impact of parking. While I note that surrounding dwellings do not all feature this level of soft landscaping, it remains that the lack thereof at the site is contrary to current policy.

27. For the reasons given, the development has resulted in harm to the character of the area. As such, it fails to comply with Policies BD1, BT2, and DMP1 of the BLP, Policies D3 and D4 of the London Plan 2021, the Residential Extensions and Alterations SPD2 (SPD2) and the provisions of the Framework insofar as they seek to ensure well designed development that responds to character and distinctiveness.

Living conditions

- Noise and disturbance

28. Given my findings in relation to the ground (b) appeal above, the development has resulted in both a seven-bedroom HMO and a separate dwelling in the rear garden. While I have no evidence as to the occupation level of the dwelling in the rear garden, my observations on site suggest at least seven occupants at the HMO.
29. It is unlikely that a single household would generate the same level of activity as this number of separate adults in a HMO and a further household in the rear dwelling. While a family unit would likely spend more time together, the proposal has the potential to result in numerous daily routines and separate activities in each of the bedrooms at the HMO and the rear dwelling.
30. As such, it is reasonable to assume that the levels of activity taking place both inside and outside the HMO and rear dwelling are over and above that normally expected in relation to a single family dwelling. It is reasonable to conclude that there has been an increase in the comings, goings, and associated activities of occupiers of the development. This additional activity has likely significantly increased the noise generated and experienced by neighbouring residents.

- Parking provision

31. The site is located in an area with a PTAL rating of 1b, such that it would have poor accessibility with regard to journeys that could be made by sustainable forms of transport, e.g. walking, cycling and public transport. As such, it is reasonably likely that occupiers of the HMO and rear dwelling would have access to a private vehicle, even if that is not currently the case.
32. I noted parking spaces to be present on the wide footpaths of Monks Park. However, many of the properties are served by vehicle crossovers to accommodate off-street parking, which has the effect of reducing on-street parking availability. As such, although this is a snapshot in time, I observed the spaces to be moderately parked during my visit, indicating a limit to the availability of on-street parking in the area, which is likely to be in further demand during the evening and at weekends.
33. No parking survey has been provided with the appeal. However, taking all of the above together with the additional routines and movements of the development when compared to a single family dwelling, I find that the number of residents and visitors seeking to park at the development when compared to its previous use has increased. This results in a required level of on-street parking which I cannot be certain on the information before me could be absorbed by the surrounding streets, leading to an increase in parking pressure for occupiers of nearby dwellings.

- Outlook

34. The resulting configuration of built form to the rear of the appeal property is readily experienced by occupiers of neighbouring dwellings, in particular at No. 59 Monks Park. While I have found that the single storey building in the rear garden of the site is not an outbuilding but a dwelling, it remains that it introduces a sizeable projection of built form along the boundary with No. 59. Despite its flat roof and the boundary features in place, this will remain visible from the rear garden of No. 59, where it will read as dominant and overbearing due to its scale and positioning, creating an undue sense of enclosure at this amenity space.

- Light

35. The first floor element of the rear extension at the site sits in close proximity to the nearest habitable room window at No. 59. In the absence of a technical assessment to the contrary, the positioning, proximity, and scale of this feature, despite its pitched roof, is likely to reduce the light reaching this habitable room. This would adversely affect the enjoyment of the space by occupiers of No. 59.
36. My findings in this regard are supported by SPD2. This advises that the depth of any two storey rear extension is restricted to half the distance between the side wall and the middle of any neighbours' nearest habitable room window, up to a maximum depth of 3m to ensure that the loss of light to neighbouring properties is within reasonable limits. However, the evidence before me suggests this guidance has not been adhered to by the development.
37. For the reasons given, the development has a significant adverse effect on the living conditions of occupiers of surrounding dwellings with regard to noise and disturbance, parking provision, outlook, and light. As such, it fails to comply with Policies DMP1 and BT2 of the BLP, Policies D3, T6 and T6.1 of the London Plan 2021, SPD2, and the provisions of the Framework insofar as they seek to ensure development does not increase exposure to noise, delivers appropriate outlook and amenity, and provides adequate parking.

Standard of accommodation

38. The Council contends that the development has resulted in substandard accommodation. In this regard, it points to a lack of personal, bin, or cycle storage, which I noted during my visit. For both the HMO and rear dwelling, the waste arrangements were unclear, and limited storage for personal items was apparent in the properties. In addition, I saw no dedicated cycle parking. There was also nothing submitted with the appeal to evidence management plans for waste disposal or garden maintenance, albeit that these could have been secured by condition had the development been acceptable in all other aspects.
39. The private amenity space for both the HMO and the rear dwelling comprises the rear garden at the appeal site. However, this is not separated between the properties and is limited in size due to the placement of built form. Its usability is reduced by its long, narrow corridor section and stepped area to the rear. Overall, it would fail to meet the day to day needs required by the level of occupation of both the HMO and rear dwelling.
40. With regard to the HMO, the Houses in Multiple Occupancy Supplementary Planning Document (the HMO SPD) provides guidance on the standard of accommodation to be provided. This includes stating that all bedrooms must have at least one window providing adequate light and aspect. While most of the

bedrooms I viewed complied with this, I observed that the middle bedroom on the ground floor had only a rooflight for a window. This resulted in the room appearing gloomy and enclosed, failing to provide adequate light or outlook to occupiers.

41. In addition, the HMO SPD advises that a 5.5sqm kitchen should be provided for any HMO with 3 households or 5 people, and doubled up to meet the minimum space for 6 households or 10 people. It further states that a suitable sized table should be provided with the number of chairs matching the people it will accommodate. Given the number of households that could be accommodated at the appeal property, I found the kitchen space to be inadequate. In addition to the modest floorspace, it provided only limited facilities that would restrict the ability for multiple households to cook at the same time. In addition, the table was a modest size with 5 spaces.
42. With regard to the rear dwelling, the minimum floorspace as per the London Plan 2021 is 37sqm for a one bedroom, one storey, single occupancy dwelling. While this is met by the rear dwelling of the development, the number of occupants are unknown. In addition, the access arrangements for the dwelling are unclear. While a separate alleyway does exist allowing for access from the street independent of the HMO, this at present is used for storage of numerous items and prevents a clear or easily used path to the dwelling.
43. For the reasons given, the development has not provided accommodation of an appropriate standard. As such, it fails to comply with Policies DMP1, BH7, BH10, and BH13 of the BLP, Policy D6 of the London Plan 2021, the HMO SPD and the provisions of the Framework insofar as they seek to ensure that development is of an acceptable quality meeting appropriate standards for the needs of its occupants. While Policy BH12 has also been cited, I have found that no outbuilding is present.

Flood Risk

44. No flood risk assessment or drainage strategy has been provided with the appeal. The appellant has listed a range of mitigation incorporated into the development, to include mounting boilers at high levels, raised sockets, floor finishes, and water resistant doors and windows. However, it remains that on the information before me I cannot be certain that the development would not result in harm with regard to flood risk.
45. For the reasons given, I cannot be certain on the information that the development does not increase flood risk. As such, it fails to comply with Policies BSU13 and BSU14 of the BLP and the provisions of the Framework insofar as they seek to reduce flood risk.

Other Matters

46. The appellant submits that the development provides a solution to housing need. However, it remains as outlined above that the development has resulted in the loss of a family dwelling, for which there is a clear policy need in the area.

Conclusion

47. For the reasons given above, I conclude that the appeal on ground (a) should not succeed, and I shall refuse the deemed application for planning permission.

Overall Conclusion

48. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

C Rafferty

INSPECTOR