



Appeal Decision

Site visit made on 4 November 2025

by Grahame J Kean BA (Hons) Solicitor (HRA), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2025

Appeal Ref: APP/E5900/C/25/3365931

43 Mossford Street, LONDON, E3 4TH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Kari Moulana Mohammed Abdul Hamid against an enforcement notice issued by the Council of the London Borough of Tower Hamlets.
 - The notice was issued on 15 May 2025.
 - The breach of planning control as alleged in the notice is: without planning permission, the material change of use of the premises from single dwelling house to an 8 bedroom House in Multiple Occupation (HMO).
 - The requirements of the notice are to:
 1. Cease the use of the Premises shown in the approximate location outlined in red on the attached plan in Appendix 1 as a house in multiple occupation (HMO); and
 2. Make good any damage arising from compliance with Step 1 and remove all associated fixings and debris from the Land.
 - The period for compliance with the requirements is: six (6) months from the date this Notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (d), (f) 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 and varied as follows:
 - the deletion of the words "premises from single dwelling house to an 8 bedroom House in Multiple Occupation (HMO)" and their substitution with the words "Premises from use as a single dwellinghouse to use of a single dwellinghouse as a sui generis large House in Multiple Occupation (HMO)"; and
 - the deletion of the requirements of the notice and their substitution with the words: "Cease the use of the Premises as an HMO and restore them to the condition they were in prior to the breach of planning control."
2. Subject to the corrections and variations, 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.

The notice

3. The enforcement notice suffers from several shortcomings and needs to be put into good order. The land subject to the notice is defined as the Premises which should be reflected in the allegation of breach of planning control, as well as the fact that it is the "use" as a single dwellinghouse, which is the pre-existing use. Clearly, the property remains in physical terms a single dwellinghouse.

4. Secondly, the words “shown...Appendix 1” are entirely superfluous and serve only to potentially mislead. Section 2 of the notice already defines the land as the Premises and refers to the plan.
5. Finally, it is unclear what the “associated fixings” are that are intended by the Council to be removed. Also, it is unexplained why the Council has switched in the requirements to referring to the “Land” as opposed to the Premises which again, is potentially misleading. The Council offers no evidence as to what works may have facilitated, and were part and parcel of, the alleged breach of planning control. It would be more appropriate to vary the notice to require that the Premises are restored to their condition prior to the breach, which would not cause injustice.

Reference to 8 bed HMO

6. There is a good deal of confusion about how many bedrooms or persons there are at the premises. The appellant has not specifically disputed the allegation on ground (b) but it is in any case important to correct the allegation in the interests of clarification, where it is possible to do so without injustice.
7. Firstly, by email in July 2025, not commented on by the Council but sent in reply to the Council sending to the appellant its replies to the questionnaire, an agent of the appellant, “Brady and Co Admin” stated “*We can confirm that the property is a 5-bed House in Multiple Occupation (HMO).*”
8. Secondly, although the breach alleged refers to an 8-bedroomed property I note the earlier complaints said to relate to more than 8 occupiers which is clearly not the same thing. It appears from the Council statement that on visiting in March 2025 the officer was told by a resident that there were 8 people living there at the time, an assertion not disputed by appellant although the latter has stated that the property has “consistently” housed 5 to 6 tenants.
9. Thirdly, on 1 November 2024 an HMO licence for up to 6 households and 6 persons was granted on 31 January 2025 until 31 October 2027. The licence conditions include a schedule of accommodation for 6 bedrooms each to be occupied by a maximum of 1 person.
10. Fourthly, it appears undisputed by the appellant that a complaint was received by the Council in May 2024 that 12 people were living in the property causing noise nuisance and excessive waste on the street and another complaint in November 2024 stated that the property remained in use as an HMO with 11 people.
11. The Council refers indirectly to the pre-existing dwelling as a 4-bed unit, so one assumes it was converted to provide more bedrooms although how many is unclear.
12. I have no clear evidence as to the number of bedrooms in the property when the notice was issued. That said, I am satisfied from the information available to me, that on balance it is likely that the appeal premises were in use as a large HMO, ie for more than 6 persons, when the notice was issued. HMOs with more than six occupiers fall outside of any use class and this would be a sui generis use of the property, which description would better fit the allegation.
13. I am satisfied that these corrections and variations may be made without causing injustice to either party, using powers under s176(1)(a) and (b) of the 1990 Act.

Ground (b)

14. An appeal on this ground is that the matters alleged in the description of the breach of planning control in the notice, have not taken place as a matter of fact. The use alleged to be occurring, as corrected, is use of the appeal premises as a large HMO.
15. The “manager” of the premises, ie the person named as such in an HMO licence who is the same person as the appellant, is understood to have confirmed that there was “a group of tenants living in the property under one tenancy”. However, there can still be an HMO provided there are three or more tenants from at least two separate households, and they share facilities. There is no dispute about this.
16. Unfortunately, the appellant has made no case whatsoever, to substantiate his claim on the appeal form that the HMO use has not occurred, including at the time the notice was issued, which is the material date. Therefore, he has failed to make out his case to the required standard of proof, ie on the balance of probability.
17. The appeal on this ground fails.

Ground (c)

18. An appeal on this ground is that the matters alleged to have occurred (if they occurred) do not constitute a breach of planning control. The burden of proof in a ground (c) appeal falls to the appellant and the test of the evidence is on the balance of probability.
19. The appellant appears to be under the impression, which is incorrect, that the matters alleged will not constitute such a breach if an HMO licence has been granted. A licence, valid from 1 November 2021 to 31 October 2024 was issued on 29 April 2022, for a maximum of 6 individuals to occupy the property. A further licence was issued on 31 January 2025. However, the appellant was clearly informed in writing that planning permission is required. An HMO licence does not offer protection against planning enforcement action.
20. Nor does submission only of a planning application to retain an HMO use, suffice to regularise matters. An application for planning permission ref PA/24/01297 was made to retain the change of use of the property from a C3 residential use to a C4 HMO use with no more than 6 people. For whatever reason it appears that the application was not validated and there is no accompanying appeal before me against non-determination to consider possible jurisdiction over it.
21. An Article 4 Direction removed permitted development rights for a change of use from residential dwellings (C3 use class) to small HMOs (C4 use class) from 1 January 2021, for parts of the Council’s area including the appeal site.
22. The appellant provides no credible information to substantiate his claim that the use alleged is not a breach of planning control. Notwithstanding the effect of the Article 4 Direction, from what I have read, this large sui generis HMO use, as a matter of fact and degree and planning judgement is materially different to the existing C3 use. It is therefore a form of development for which planning permission is required but which has not been obtained.
23. The development is therefore in breach of planning control and the appeal on this ground must fail.

Ground (d)

24. An appeal on this ground is that, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice. The matter to be considered is whether, on the balance of probability, the breach of planning control has subsisted continuously for a period of ten years or more, prior to the use of the enforcement notice.
25. Unfortunately, the appellant has provided no meaningful evidence to substantiate his appeal under this ground, other than perhaps the HMO licence documentation which only goes back to recent years and does not demonstrate a continuous ten-year period of use as an HMO.
26. Consequently, I have no alternative than to dismiss the appeal on this ground.

Ground (a)

27. The main issue here is whether the loss of the pre-existing use of the appeal site as a single family dwelling to a large HMO is acceptable considering the Council's development plan policies and other material considerations, having regard to the loss of family units, issues of amenity impacts on the surrounding neighbourhood, and whether its operation would meet relevant standards for HMOs.
28. The Council thinks the site is in the Regents Canal Conservation Area according to the officer who wrote the delegated report and the subsequent appeal statement. This is clearly wrong. The site is in the Ropery Street Conservation Area (RSCA).
29. By s72 Planning (Listed Buildings and Conservation Areas) Act 1990 I must pay special attention to the desirability of preserving or enhancing its character and appearance. This is a relatively densely populated and bustling residential area of an inner London borough. I saw that the dwellinghouse has a character and appearance not dissimilar to its neighbours within a terrace of similar mid to late Victorian properties with a uniform and pleasing appearance, accentuated by such features as a continuum of two-storey bay windows and front boundary railings. Such aspects of the built form contribute positively to the significance of the RSCA.
30. The appeal property incongruously lacks these railings present in its neighbours, but I do not see that this has anything to do with the impact of the HMO use on the RSCA or its setting. In fact, the Council has not made me aware of its view (if it has one) of the significance of this part of the RSCA or provided me with any appraisal document. The immediate surroundings of the appeal site do not belie a prevalence of HMOs over single family properties or vice versa. It is not explained how specifically, the development causes harm to the significance of the RSCA.
31. The Council claims that there is an evidenced need for family-sized homes but this is not detailed in its statement. Its decision to make and confirm an Article 4 Direction removing permitted development rights for changes to C4 HMOs, does show a desire to prevent the unjustified loss of such housing, but that does not negate "*a proven need for shared housing at this location*". It should be understood that Article 4 directions can be made on a "blanket" wide basis so that any proposed HMOs can be properly assessed. That does not necessarily reveal that there is an overriding need to protect family housing in an area subject to the direction if, for example there is shown to be a need for HMOs, properly regulated, in that same area.

32. Indeed, there is understood to be an increasing demand for HMO accommodation in the borough, particularly among young people. HMOs are an integral element of the housing stock where the aim is to ensure capacity meets demand. What the Council's officer describes as the "post amble to the policy" (the explanatory or supporting text or justification), explains that "*need*" will require to be demonstrated with regards to "*the specific scheme and location*", yet the Council fails to provide persuasive detailed information from which I might distinguish, on a quantitative or qualitative basis where, as between family housing and HMO provision, the greater need lies as regards the appeal site.
33. Furthermore, its assertion that the unauthorised change of use to an HMO "*has taken place in an area predominantly residential*" is unfortunately meaningless because all HMOs are residential.
34. The Council also seeks to object to the development because, according to the author of its appeal statement, the breach of planning control "*is causing continuous harmful impact on the amenity and character of both the host dwelling and surrounding street views.*" I do not accept this statement as persuasive because the Council fails to explain how the character and appearance of the property is being adversely affected. The outward appearance of the property differs little from its neighbours, clearly not all of which are HMOs.
35. Turning to living conditions of neighbouring occupiers, one person has commented on lack of proper maintenance and supervision, refuse spilling onto the pavement causing mess and obstruction, and thought to have contributed to pest issues. Another mentions disturbances caused by tenants including unsociable use of the rear garden late at night, and a faulty fire alarm that disrupted peace and sleep for several months in late 2024. It is undisputed by the appellant that a complaint was received by the Council in May 2024 that 12 people living in the property were causing a noise nuisance and excessive waste on the street. Another complaint in November 2024 stated that the property had stayed in HMO use with 11 people.
36. Whilst not directly contradicting the neighbours' comments, the appellant acknowledges one incident of a nuisance caused by previous tenants, but this was an isolated event, he pointing out the HMO licence has been in place for many years. He is "*committed to being more strict with tenant referencing in the future*" and the property has "*consistently*" (but I note, not at all times) had 5 to 6 tenants.
37. Sometimes several individual households, confined to a single room albeit with shared facilities, produce less noise than a single family given the run of the whole property, but this will only be achieved with properly managed and supervised premises. There is an obvious and legitimate overlap between HMO licence conditions and planning considerations. The point of assessing HMO proposals for planning permission is among other things, to consider carefully how the property would be effectively managed to avoid adverse impacts on neighbouring residents.
38. On the scant details supplied, there are still concerns as to this point and without a clear scheme for managing the HMO, I must conclude that the comings and goings of several households in the same premises are likely to result in unacceptably adverse impacts on living conditions of nearby residential occupiers.
39. I give weight in this appeal to the Article 4 Direction which *prima facie* indicates that the numbers of HMOs should be carefully assessed on an application expressly made for planning permission; and secondly, despite the opportunity for

the appellant now to make such a case, and considering concerns about the perceived impacts of the use, to the lack of robust justification advanced for an HMO use as a departure from the key local plan policy, Policy D.H7.1 of the Tower Hamlets Local Plan 2031 (THLP) adopted in 2020.

40. Policy D.H7.1 states among other things that HMO's should meet an identified need, not result in the loss of existing larger housing suitable for family occupation, be in an area of high transport accessibility, not give rise to significant amenity impacts on the surrounding neighbourhood, and comply with housing space standards in Policies D.H3 and D.DH8.
41. In a sense the appellant has implicitly argued that permission should be granted for a small HMO which is ostensibly what is claimed to be (wrongly as I have judged, at least when the notice was issued) the current use of the premises. I have therefore also considered such a proposal, which could legitimately be regarded under s177(1)(a) as part of the matters alleged in the notice.
42. The appeal site is in a sustainable location for transport accessibility. There are no grounds on which I can discern harm to the significance of the CA or its setting. There are clearly concerns as to the off-site effects of the unauthorised use which in my judgement have not been adequately addressed. Although no quantitative analysis or comparison of supply and demand for HMO and family accommodation is given, it remains the case, significantly, that the unauthorised use results in the loss of a larger property capable of operating as a single family unit. Furthermore, no information has been provided to give me confidence that the housing space and other standards are currently met in accordance with the stated policies.
43. Despite its sustainable location, I find that the development causes harm in that, contrary to THLP Policy S.H1 it undermines the supply of family homes, and results in a loss of a large family dwelling contrary to THLP Policy D.H7(b). I find that the development conflicts with the development plan as a whole, and the harm is not outweighed by other considerations. Therefore, I must determine the appeal in accordance with the development plan and will refuse planning permission.

Ground (f)

44. An appeal on ground (f) is that the requirements of the notice are excessive, and lesser steps would overcome the objections. The purpose of a notice, under s173(4) of the Act is to: (a) remedy the breach of planning control that has occurred, or (b) to remedy any injury to amenity which has been caused by the breach. Reading the enforcement notice as a whole (as amended) its purpose is to remedy the breach of planning control by requiring the HMO use to cease and the property restored to its condition prior to the breach of planning control.
45. I have already addressed the vague nature of the requirement in the notice to remove "associated fixings". On the notice as corrected and varied, the appellant fails to propose any alternative to its requirements that would remedy the breach of planning control at less cost or expense. I do note that the requirements will result in cessation of any use as an HMO but that is not an inappropriate step given the Article 4 Direction and the lack of a robust case made for any HMO use.
46. Therefore, the appeal on ground (f) fails.

Conclusion

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

Grahame J Kean

INSPECTOR