



Appeal Decision

Site visit made on 12 November 2025

by Mr J Blackwell LLB (Hons) PGDip, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 18 November 2025

Appeal Ref: APP/Y5420/C/23/3326215

1A La Rose Lane, Tottenham, London N15 3AP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (1990 Act).
- The appeal is made by Mr Mark Harding against an enforcement notice issued by the Council of the London Borough of Haringey.
- The notice was issued on 3 July 2023.
- The breach of planning control as alleged in the notice is the unauthorised use of the property as a House in Multiple Occupation.
- The requirements of the notice are to cease the use of the property as a House in Multiple Occupation.
- The period for compliance prescribed by the notice was approximately 6 months from the date of the notice.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (d) 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.

Summary Decision: The appeal is dismissed and planning permission is refused.

Preliminary Matters

1. A site visit was originally arranged for Wednesday 8 October 2025, however the appellant was not present and access could not be granted to the property. A site visit was therefore rearranged for Wednesday 12 November 2025. On this occasion, the Council did not turn up. Nonetheless, I carried out the visit on an access required basis. I am satisfied this arrangement did not cause prejudice to the Council, as no evidence was discussed during the visit.
2. Since the enforcement notice was issued, the road name on which the appeal property is located has changed. It is now known as La Rose Lane. I have corrected the notice accordingly.
3. The time given for compliance with the requirements of the enforcement notice is specified as a date, which was six months and eleven days after the date of the notice. Periods for compliance should not be expressed as a specific date, as it does not provide for the possibility of appeal. I have therefore varied the notice to allow a period of 7 months for compliance (rounded up from 6 months and 11 days). Given this is a slightly longer period for compliance than initially specified, I am satisfied the change will not cause undue prejudice to the appellant.
4. The appeal concerns a material change of use of the appeal property to a House in Multiple Occupation (HMO). Whilst a material change of use to a small HMO (for up to six people) can sometimes be permitted pursuant to permitted development rights, in this instance, the Council has issued an Article 4 Direction which removes

those rights. In turn, planning permission would be required for use of the property as a small HMO.

5. Whilst no detailed plans have been submitted, the appellant says the property is occupied by no more than six people. However, on my site visit, I observed eight separate bedrooms, which suggests the occupancy of the HMO is higher than six. In turn, I have assessed the development on the basis of a large HMO, for six or more people (which is a sui generis use). This means permitted development rights would not be applicable, irrespective of the Article 4 Direction.
6. Whilst the appellant did not formally plead ground (d) in their appeal form, some of their case appears to be based on the property's use as an HMO being immune from enforcement. This is akin to a ground (d) appeal. Whilst limited evidence has been presented on this ground, I have nonetheless considered it in full.

Ground (d)

7. Pursuant to ground (d), the appellant suggests that use of the property as an HMO may be immune from enforcement. The appellant's case on this ground is predicated on the property's use as an HMO becoming immune from enforcement after four years. This appears to be on the basis of s171B(2) of the 1990 Act, which previously said a change of use of a building to a single dwelling would become immune from enforcement after a period of four years from the date of breach. However, an HMO is not classed as a single dwelling house, which means this time limit for immunity is not applicable.
8. Instead, the time limit for immunity for a material change of use to an HMO is governed by s171B(3) of the 1990 Act. This says no enforcement action may be taken against an unauthorised material change of use after ten years beginning with the date of the breach. To succeed on ground (d), the appellant would therefore need to demonstrate, on the balance of probability, that use of the property as an HMO had been ongoing continuously and uninterrupted for a period of ten years prior to the date of the notice, being 3 July 2013 (or before).
9. In this instance, the appellant says the property was converted from a commercial premises to a residential property sometime around 2016. They go on to say that they applied for an HMO licence in 2021. Whilst it is not clear exactly when the HMO use began, if the property was in commercial use in or around 2016, then clearly, it had not been used as an HMO for at least ten years prior to the date of the enforcement notice.
10. In turn, the appellant has not demonstrated, on the balance of probability, that use of the property as an HMO had been ongoing continuously and uninterrupted for a period of ten years prior to the date of the notice. Therefore, the use was not immune from enforcement on the date of the notice. The appeal on ground (d) therefore fails.

Ground (a)

11. Pursuant to ground (a), the appellant says planning permission should be granted for the development alleged in the notice. The main issues related to this ground, informed by the reasons for the notice, are:
 - the effect of the development on the living conditions of the occupiers of the appeal property; and

- the effect of the development on the living conditions of neighbouring occupiers, particularly in terms of the concentration of HMOs within the area.

Reasons

Living Conditions

12. Policy DM17 of the Council's Development Management DPD 2017 (DMDPD) sets out a number of criteria which must be met, for the conversion of a larger home to a House in Multiple Occupation to be permitted. Criterion (e) requires such development to provide high quality accommodation that satisfies the requirements of the Local Plan, including internal space standards and provision of a satisfactory level of amenity space for its occupiers.
13. Whilst no detailed plans have been provided, the HMO is spread over two floors of the property. Although I was not able to access any of the individual bedrooms during my site visit, I observed one door into a bedroom at ground floor level, and doors into seven further bedrooms on the first floor. There were three bathrooms at first floor and one kitchen.
14. The single kitchen is small, and provides very little communal space to the occupiers of the HMO. Given its size, it is difficult to envisage more than a couple of occupiers being able to comfortably use this space at any one time. This is problematic, as there appears to be no other internal communal space within the property. The level of communal amenity space is therefore inadequate for eight (or more) occupiers, which is to the detriment of their living conditions.
15. Whilst the property appears to be well-maintained, the clear lack of communal amenity space harms the living conditions of its occupiers. The development therefore conflicts with the objectives of Policy DM17, insofar as it seeks to achieve satisfactory levels of internal space for its occupiers, including amenity space. The development also conflicts with Policy SP2 of the Council's Local Plan 2013-2026 insofar as it seeks to achieve the same.

Concentration of HMOs

16. The reasons for the notice suggest the development results in an over-concentration of HMOs within the vicinity of the appeal property. However, very little evidence has been provided by the Council to corroborate this assertion.
17. Physically, I saw nothing on my site visit to suggest there are any particular issues with over-concentration. Moreover, even though the property is said to have been used as an HMO for a number of years, there is little evidence to suggest it has resulted in adverse amenity impacts within the locality, particularly in terms of noise or disturbance. On the available evidence, I am therefore satisfied that the development does not result in an over-concentration of HMOs, nor does it give rise to any significant adverse amenity impacts on the surrounding neighbourhood. The development therefore meets criterion (b) of policy DM17.

Other Matters

18. HMOs can make an important contribution to a Council's housing stock, as they can provide an affordable and cost-effective means of accommodation. However, the need for HMO accommodation should not be at the expense of its quality. In

this instance, the quality of the HMO is compromised by its lack of communal amenity space. In turn, the benefits ascribed to the affordability of the HMO do not outweigh the identified harm.

19. An HMO licence does not confer planning permission for use of a property as an HMO. The two processes are separate. Therefore, even if the appeal property benefits from an HMO licence, this does not mean the use is acceptable in planning terms. The same is true of any Council Tax registration.

Ground (a) conclusion

20. On the available evidence, there is little to suggest that the development results in an over-concentration of HMOs. However, it does harm the living conditions of its occupiers, due to a lack of communal amenity space. Overall, the development therefore conflicts with the development plan as a whole, and there are no other considerations, including the provisions of the National Planning Policy Framework, that outweigh this finding. The appeal on ground (a) therefore fails.

Human Rights Considerations

21. Failure to succeed on grounds (a) and (d) will in all likelihood, require current occupiers of the property to vacate their home. This represents an interference with their property (Article 1) and their home and family life (Article 8), which are afforded protection under the European Convention on Human Rights, as incorporated by the Human Rights Act 1998.
22. Nonetheless, there is little evidence before me to suggest current occupiers would be unable to secure alternative residential accommodation elsewhere. The notice allows seven months to comply with the requirements to cease use of the property as an HMO, which is a reasonable period to achieve this.
23. Compliance with the notice will ensure that development provides adequate living conditions for its occupiers and those of neighbouring occupiers. It has not been shown that these legitimate aims can be achieved by means which would interfere with the occupiers' rights any less. In turn, the requirements of the notice are proportionate and necessary in the circumstances, and do not result in a violation of the occupiers' rights under Articles 1 and 8.

Conclusion

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

Formal Decision

25. It is directed that the enforcement notice is varied by:
- (a) The substitution of "Black Boy Lane" in paragraph 2 with "La Rose Lane"; and
 - (b) The deletion of paragraph 6 and its substitution with the following new paragraph 6:

6. TIME FOR COMPLIANCE

7 months from the date the notice takes effect

26. Subject to the correction and variation, 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.

Mr J Blackwell

INSPECTOR