



Appeal Decision

Site visit made on 5 November 2025

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

an Inspector appointed by the Secretary of State

Decision date: 17 December 2025

Appeal Ref: APP/N5090/C/24/3337182

Land at 97 Watford Way, London, NW4 4RS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Kazumasa Seki against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice was issued on 13 December 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the making of a material change of use of the property to use as a House in Multiple Occupation (Use class C4).
 - The requirement of the notice is to cease the use of the property as a House in Multiple Occupation.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b) and (c) of the Town and Country Planning Act 1990 (as amended).
-

Decision

1. It is directed that the enforcement notice is corrected by deleting the words '(Use class C4)' in section 3.
2. Subject to the correction, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

3. I note the Council's submissions on matters relating to character and appearance, living conditions and housing need. However, I am unable to consider such matters, insofar as they relate to the planning merits, because the appellant has not made an application for planning permission through a ground (a) appeal.
4. For legal grounds of appeal (b) and (c), the onus lies with the appellant to make his case on the balance of probabilities.
5. By way of background, a Class C3(a) dwellinghouse is use by a single person or by people to be regarded as forming a single household. The term 'single household' is to be construed in accordance with s258 of the Housing Act 2004 as including persons who are all members of the same family or persons whose circumstances are described in regulations. Class C3(c) is not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4)¹.
6. Class C4 is the use of a dwellinghouse by not more than six residents as a house in multiple occupation (HMO). For the purposes of Class C4, a HMO has the same meaning as in s254 of the Housing Act 2004. Broadly that equates to occupation by between three and six individuals who do not form a single household and that

¹ C3(b) is not more than six residents living together as a single household where care is provided for residents

two or more of the households share one or more basic amenities. HMOs with more than six occupiers fall outside of any use class.

The Appeal on Ground (b)

7. The ground (b) appeal is that the breach of control alleged in the enforcement notice, namely a material change of use of the property to use as a HMO (Use class C4), has not occurred as a matter of fact.
8. The appeal relates to a relatively large, two storey, semi-detached house, with additional accommodation at roof level. The property is configured to provide a lounge/office space, a laundry room, one kitchen, two toilets, a bathroom, a shower room, and eight-bedrooms - seven within the main house and one within an outbuilding attached to a garage at the end of the rear garden.
9. There are no toilets or personal washing facilities in any of the bedrooms, and I saw no cooking facilities either. There is no suggestion that arrangement differs from when the enforcement notice was issued. The bedrooms are not therefore self-contained flats/units of accommodation, and occupants will have had to share two basic facilities, namely a kitchen and a bathroom or shower room.
10. The appellant contends that it is his family home, occupied by himself, his wife and his daughter. He states that his family has a big network of friends and relatives from Asia and Europe who often visit and stay at his home for a time and do not pay any rent because they are invitees rather than tenants. The appellant asserts that the friends come to visit for short periods and that the property is not their main or only residence; they all have their own homes and other places to reside outside London.
11. In response to the Council's Planning Contravention Notice (10 February 2024), the appellant confirmed there to be eight people resident at the property – three family, one tenant and four guests. I have little before me to show that those people lived together as a single household and, other than the kitchen, I saw no obvious communal internal living space. (Although the lounge contained a sofa, it was evidently being used as an office as well.) In any case, eight residents would breach the size threshold of Class C3(c) of not more than six residents.
12. It is not a matter of dispute that the property is the main residence for the appellant, his wife and daughter. As members of the same family, they amount to a single household.
13. Limited information is provided regarding the tenant. The appellant says that at times he has rented a room, as it is a big property and he has spare space, but that to his knowledge, it is not the tenant's only or main residence. On the face of it that appears to be contradicted by his confirmation elsewhere in his evidence that the tenant lives in bedroom 3.
14. There is also a lack of information regarding the duration of any occupancies, any tenancy agreements which may have been made and the number/turnover of tenants occupying that room. Nor has corroborating evidence been provided from any tenant(s), including confirmation that the room was not their main residence, thereby addressing the somewhat uncertain submission of the appellant in that regard.

15. In any case, there is no suggestion that the tenant(s) were members of the appellant's family or that rent was not paid. In the absence of evidence to the contrary, the tenant is therefore likely to comprise a further separate household.
16. If the four guests are related to the appellant's family, then they would form part of that single household. However, the appellant explains that bedroom 7 is occupied by a family friend at times and that bedroom 8 had been prepared for the visit of a friend who for a short period was to work with the appellant. Those persons are not therefore family.
17. Very little information has been provided about other guests, such as their relationship to the appellant and his wife and/or each other. No information is provided regarding the duration of their stay or whether their occupation of the living accommodation constitutes the only use of the same. Nor is any explanation provided on how those people occupied and lived in the property and the nature of any communal living. Furthermore, no corroborating evidence has been provided by friends or relatives which confirms the appellant's version of events.
18. The Council states that on the day of its site visit, the property was occupied by the appellant, his wife and daughter and the tenant, and that at least three other rooms were occupied. The impression given was that all but two bedrooms were being used in the same manner, in that there were no identifiable differences between the family rooms and the tenant and guest rooms, other than size. It appeared to the Council that none were used by visitors, rather they all appeared to be used by long term occupants.
19. Although my site visit obviously took place after the notice had been issued, that is generally consistent with my own observations, save that all of the bedrooms appeared to be used, including that in the outbuilding, in that each contained clothes, personal items and beds that had clearly been used. The nature of the rooms suggested a long-term occupancy, rather than occasional use.
20. For the above reasons, it is not therefore sufficiently clear whether the purported guests amounted to additional households, above the two created by the appellant's family and the tenant.
21. Moreover, six of the bedrooms have room numbers attached to the outside of the doors and all of the doors have locks, some of which I saw had keys in them, so it is likely that occupants are able to lock their doors and do so. I also saw a notice on the kitchen door to remind occupants to lock it, as well as refuse and recycling instructions posted on the front door. Again, whilst my visit was after the notice was issued, there is no suggestion those fixtures and notices have latterly been introduced.
22. The purported guests are therefore staying in numbered, lockable rooms and are expected to follow posted instructions. The nature of the use of the rooms also suggests that the guests are probably not visiting but are in long-term residence. Those are characteristics which are much more likely to be found in a HMO, rather than a Class C3 dwellinghouse, even one that has numerous guests.
23. The appellant for his part has not shown, to the required standard of proof, that guests do not pay rent or that other considerations are not provided in lieu of the same, or indeed that the property was not in use as a HMO as alleged.

Nevertheless, occupancy by eight individuals would preclude the use falling within Class C4.

24. In terms of whether there has been a material change of use, the use of the property as a HMO made up of eight persons from at least two separate households, clearly has the potential to result in a significant difference in the character of the activities from what has gone on previously as a matter of fact and degree, so as to amount to a material change of use. That is particularly so compared to the likely actual use of the property by the appellant, his wife and his daughter.
25. Nevertheless, it is a large property and there is clear scope for increasing the number of individuals living there whilst still falling within what would reasonably be considered as a normal use of a class C3(a) dwellinghouse. However, the appellant has provided very little information on matters such as day-to-day activities, patterns of use, behaviour, visitation and deliveries. It may be that the level of activity and the noise and disturbance arising did not significantly exceed that which could reasonably have been expected from a dwellinghouse of the same size, but the appellant has not shown that to be the case, on the balance of probabilities.
26. The appeal on ground (b) fails, although the enforcement notice must be corrected to delete reference to Class C4, for the reason explained.

The Appeal on Ground (c)

27. A ground (c) appeal is that the matters do not constitute a breach of planning control.
28. The appellant highlights that a change of use from Class C3 to C4 is normally permitted development under Schedule 2, Part 3, Class L of the GPDO². However, the Council confirms that an Article 4 Direction removing those permitted development rights came into effect on 29 May 2016, so since that date planning permission is required for the change of use. The Council asserts that no such permission has been granted and the appellant does not show otherwise.
29. Nevertheless, permitted development rights for a change of use from Class C3 to C4 came into force on 1 October 2010³. Consequently, if a Class C4 use of the property commenced between that date and the date of the Article 4 direction coming into force, there would not have been a breach of planning control.
30. Whilst the appellant says he moved into the property in 2014, he says he never changed the use of his family house since he first occupied it. It is not therefore argued that a C4 HMO use commenced when it did not require planning permission.
31. In any case, the matters as corrected, do not refer to a Class C4 use; that is precluded by the level of occupancy. A HMO with more than six occupiers falls outside of any use class so the permitted development rights would not be applicable even if the Article 4 direction was not in place.
32. The appeal on ground (c) must fail.

² The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

³ The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2010

Conclusion

33. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction.

Richard S Jones

INSPECTOR